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**Legal and Administrative Sciences  
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**Teleworking or Working at Home carried out within Institutions**

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**Abstract:** Information plays a crucial role in maintaining interpersonal relationships and developing society. The use of information technologies has caused a rapid change in our society. Although society bears the negative consequences of cybercrime, technology is still used in a wide variety of fields. This proves that it is, in fact, indispensable. To limit cybercrime, states should continue to develop computer technology and create legislation to criminalize harmful acts committed through technology. It is also necessary that the people involved in the fight against this phenomenon receive the necessary training. It is, at the same time, important that the population is well informed regarding the security of IT systems, thus providing an effective barrier against IT crime.

**Keywords:** cyber-attacks; COVID-19 virus; telework; security

## 1. Introductory Aspects about Work from Home

IT field has revolutionized work and life in the 21st century. Advances in ICT have opened the way to new ways of working. Telecommuting and ICT-based mobile work have become an integral part of a package of flexible working methods aimed at modernizing the organization of work. In many EU countries, policymakers are debating the rapid changes in the way we work and the implications for other aspects of our daily lives, such as work organization, work-life balance, health, and wellbeing.

Home-work is regulated by the Labor Code, in Title II, Chapter IX, art. 108-110. This involves an important matter, the employer being obliged to provide transport to and from the employee's home for the raw materials, materials and finished products used in the professional activity. Also, the work schedule is set by the employees, and the employer must carefully monitor the working hours in accordance with the law and the intentions set forth in the written contract concluded between the parties.

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Regarding the service reports of public officials, they can carry out their activity in a telework regime, under the conditions provided by the Labor Code, as well as in a work-at-home regime in accordance with the provisions of Law no. 53/2003, republished, with subsequent changes and additions. Also, public authorities and institutions can establish by administrative act other forms of flexible organization of working time, according to art. 153<sup>1</sup> para. (5) from Law no. 53/2003, republished, with related changes and additions.

Telework is carried out because of the approval by the head of a public authority or institute of the official's request. The administrative act establishes the structures, activities and positions that allow teleworking, and its duration cannot exceed 5 days in a month.

Regarding civil servants, it is possible to approve telework in the following cases: children up to 11 years of age, caring for a close person with the same domicile, severe medical conditions or pregnancy, as well as activities that can be carried out in this way, according to the decision of the head of the public authority or institution.

Public employees who are in a telework situation have the obligation to have all the resources necessary to fulfill the tasks they have according to the job description. They must respond to requests regarding their activity and follow the regulations and norms that the institution has in force, including those related to the protection of personal data.

The public authorities and institutions at the level of which they activate public servants in telework mode are obliged to carefully check their activity through information and communication technologies. It must also ensure the highlighting of all the hours worked by them, as well as the provision of adequate, safe and functional means and equipment in order to perform the work. In addition, civil servants must be properly trained in matters of safety and health at work, being presented with information and instructions on the use of equipment.

To comply with the limit of acceptable working hours, employers must monitor the activity of employees working from home and ensure increased communication between them. It is essential that employed people do not overwork themselves, so that employers provide guidance and support to prevent social isolation.

During the exercise of the telework or home from work activity, civil servants benefit from all the rights recognized by law, except for the increase for difficult, harmful, or dangerous working conditions.

The public authorities and institutions have adopted procedures for carrying out the activity in a telework regime, respectively work at home, in which the following are considered: the format of requests of this type, the necessary means and the methods by which it is possible to prove, report and monitor the achievement of the task specific ones. These include the telephone, desktop or laptop computer, Internet access, electronic signature, secure remote access to IT systems, the email system and document resources.

The possibility to work remotely can be advantageous for employers and employees in 2023. However, the inclusion of those clauses in the individual employment contract or in the addendum to it will be mandatory, and fines will apply starting from 5,000 lei. Among other provisions that must be considered is the employer's obligation to provide the means related to information and communication technology, to install, check and maintain work equipment, as well as to provide the employee with sufficient and appropriate training. If these obligations are not respected, the penalties will be between 2,000 and 10,000 lei for each person.

Law 283/2022 introduces the possibility of working for a public authority or institution in a telework regime, its provisions being supplemented by private institutions. They can request telework only if they lend themselves to such scenarios and there is agreement from both parties. Although they are supposed to benefit from the same rights, there are major differences ranging from the duration of the work to the costs that must be borne by civil servants during the period of the cut in the workplace. It is also important to know that both categories of workers must have the necessary equipment available and be trained to use it, and they will be monitored throughout the remote work.

## **2. Teleworking or Working at Home during the COVID-19 Pandemic**

Time is a precious element, “time is money” as the Americans say or time is a “hot commodity” which has led many employers around the world to approve employees working from home, especially in the context of the COVID-19 pandemic. The purpose of this decision was to eliminate downtime in the activity of companies, determined by the quarantine or isolation of employees at home following contamination or contact with COVID-19 patients, generating significant financial damages for companies.

This opportunity has brought benefits to both employers and employees, by ensuring the continuity of the companies’ activity, reducing the employers’ expenses with utilities (electricity, water, gas, transport, cleaning, etc.), more time available to employees, lower or no expenses for them, a more flexible schedule in the areas where this is possible, more time spent with children and family.

In an analysis carried out by Eurofound during the pandemic, it was found that the situation of citizens in the European Union has improved considerably since July 2020, when there was a decrease in the unemployment rate and an increase in the number of hours worked compared to the period of April 2020. However, inequalities are observed between people, especially among young people and women. Unemployment has risen among those without any government support, with many having to rely on informal support. Young people reported the greatest difficulty in making daily living, and women remain at lower levels of well-being as well as less optimistic about the future than men. However, fortunately, there is an increase in confidence in the EU, more pronounced in heavily affected countries, such as Italy and Spain, those who received official financial support being the most excited.

In Roumania from a legislative point of view, on 06.11.2020 the legal framework was created regarding telework or home-work for the pandemic period, through the entry into force of O.U.G. no. 192/2020 regarding the mandatory organization of work at home or telework during the entire period of the state of alert. Also, Law 55/2020 on some measures to prevent and combat the effects of the COVID-19 pandemic was amended by O.U.G. no. 192/2020 previously mentioned.

The Romanian authorities have issued a series of normative acts with the aim of regulating the measures to be taken to prevent and combat the effects of the COVID-19 pandemic. Among them are H.G. 856/2020, which provides for the extension of the state of alert on the territory of Romania from October 15, 2020, as well as H.G. 935/2020 for changing annexes 2 and 3 to H.G. 856/2020.

During the state of alert, employers in the private or public system were able to order the activity to be carried out telework or work at home, considering the specifics of the activity. Thus, the two forms of carrying out work activities have become mandatory, subject to the objective impossibility of carrying out work at home or teleworking, given the specifics of the activity.

The Constitutional Court declared by Decision no. 50 of February 15, 2022, that GEO no. 192/2020 is completely unconstitutional because it did not comply with the approval procedure for draft normative acts by the Legislative Council.

Among the effects of the Constitutional Court decision are those related to labor relations included in art. 17 of Law no. 55/2020. Thus, the previously mentioned article returned to its original form after its modification by GEO no. 192/2020. In its previous form, the text stipulated that employers arrange telework with the employee's consent during the state of alert. In this sense, to the extent that there is no additional act to the employment contract, which regulates telework, it became necessary again after the publication of the CCR decision in the Official Gazette.

Also, art. 21 of the same law refers to the obligation of employers with more than 50 employees to organize the work schedule so that the staff are distributed in groups that must start and finish the activity at least one hour apart. This article also reverted to its previous form by the CCR decision - meaning that employers only have the power to establish individualized programs without requiring the consent of employees.

With the start of working at home or teleworking, problems regarding IT security also arise. Therefore, technical issues and/or issues regarding how the employee uses the devices may arise.

Technical problems refer to the physical integrity of the devices and their configuration, in particular the incorrect configuration of the Internet connection (lack or incorrect configuration of WIFI security), the risks related to data storage both in the online environment (cloud), as well as locally (on the working device), storing or operating devices in non-compliant conditions, etc.

Issues related to the employee's use of the device relate to the employee accessing illegitimate sites, downloading attachments from emails sent by cyber attackers, or running unsafe programs with malicious content, etc.

In conclusion, we can say that working at home or remote work involves certain risks, both for the employee and the employer. That is why it is recommended that the employer take all necessary measures in terms of training the employee on how to use the devices when disposing of it and correctly configure the devices that are used to perform the work activities, otherwise this negligence could be expensive.

### **3. Recommendations and Law Proposal**

Considering that work at home takes place through computer networks and devices, we consider that the following measures are necessary to avoid security incidents: periodic backups of databases, use of antiviruses and software updates on the device, isolation of devices infected, beware of accessing links and attachments from emails of unknown source displaying file extensions and monitoring processes running in the operating system. It is also advisable to avoid paying the sums of money demanded by hackers and to call on specialists in the field of computer security whenever there is an excess of unnatural activity in computer systems.

#### 4. Conclusions

Given the current legal framework of the actual law and at the same time, considering that telework is carried out through an internet network, we consider it necessary that Law 81/2018 on the regulation of telework activity, include the following article:

Art.81' (1) *If the connection to the internet network is not made available by the employer, then the teleworker has the obligation to communicate the technical data of the internet network to the employer.*

(2) *The teleworker is responsible for the security of the Internet network and the data transmitted through the Internet network.*

(3) *Failure to comply with par. (1) constitutes a disciplinary offense.*

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