

SDC CGA Framework agreement digitalisation

FINAL VERSION FOR ADOPTION ON 17 June 2022

TO BE DELETED ONCE TEXT IS ADOPTED: HEADINGS

- 1. Subject matter**
- 2. Scope**
- 3. Definitions**
- 4. Teleworking**
- 5. Health and safety**
- 6. Skills development, training and qualifications**
- 7. Data management and protection**
- 8. Artificial intelligence**
- 9. Access for users**
- 10. Additional clauses: Outsourcing, job protection and agile work**
- 11. Implementation**

THE SOCIAL PARTNERS TUNED and EUPAE, WITHIN THE SOCIAL DIALOGUE COMMITTEE FOR CENTRAL GOVERNMENT ADMINISTRATIONS

HAVING REGARD TO

- Articles 153-155 of the Treaty on the Functioning of the European Union (TFEU),
- the Charter of Fundamental Rights of the European Union,
- the European Pillar of Social Rights,
- the Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work,
- the Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time,
- the Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union,
- the Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU,
- the Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation,
- the Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin,
- the conventions and recommendations of the International Labour Organization (ILO), in particular the 1919 Hours of Work (Industry) Convention (No.1), the 1930 Hours of Work (Commerce and Offices) Convention (No. 30), the 1981 Collective Bargaining Recommendation (No. 163), the 1981 Convention on Workers with Family Responsibilities (No. 156) and its accompanying Recommendation (No.165), as well as the 2019 ILO Centenary Declaration on the Future of Work,
- the Council of Europe's Revised European Social Charter of 3 May 1996, and in particular Article 2 (regarding the right to just working conditions, including to reasonable working hours and to rest periods), Article 3 (regarding the right to safe and healthy working conditions), Article 6 (regarding the right to collective bargaining) and Article 27 (regarding the protection of workers with family responsibilities),

- the Universal Declaration of Human Rights,
- the Council conclusions of 26 November 2019 on the economy of wellbeing, the Council conclusions of 8 June 2020 on enhancing well-being at work and the Council conclusions of 10 December 2019 on a new EU Strategic Framework on Health and Safety at Work calling for a new EU Strategic Framework on Health and Safety at Work for the years 2021 to 2027,
- the Council Conclusions of 14 June 2021 on telework,
- the European Parliament resolution of 21 January 2021 on the right to disconnect,
- the communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled '2030 Digital Compass: the European way for the Digital Decade',
- the European Social Partners Framework Agreements on Telework (2002) and Digitalisation (2021),
- the SDC CGA Agreement for a quality administration,
- the SDC CGA guide for a checklist on digitalization and work/life balance,
- the General Data Protection Regulation 2016/679

HAVE AGREED ON THE FOLLOWING:

1. Subject matter

This agreement lays down common minimum requirements designed to regulate the use of digitalization at work and in particular to:

- ensure that digitalization goes hand in hand with social progress, tangible, shared benefits for workers, management and service users;
- Enhance and support equality of opportunities and treatment, work/life balance, work organization and meaningful jobs;
- Encourage and support a good effective social dialogue and trade union rights at national level (sectoral and workplace levels) and ensure good levels of effectiveness of administrative action;
- Prevent and mitigate occupational health and safety risks;
- Develop a human-controlled digitalization including AI.

The agreement provides for a shared assessment, process and outcome whereby digitalization becomes part of a social dialogue and/or collective bargaining so that workers and their trade union representatives have a say in the design and implementation of digitalization.

To that end, this agreement provides for individual and collective rights.

2. Scope

This agreement applies to all workers and civil servants who have an employment contract or statutory relationship in central or federal governments and who currently use or will use digital technology to fulfil their work.

3. Definitions

For the purposes of this agreement, the following definitions apply:

- 1) Worker: employee working for central government administrations according to national legislation, whether civil servant or contractual employee

- 2) Central government administrations mean administrations under the authority of governments at federal or central level.
- 3) National legislation means the laws, regulations and practices, including collective agreements concerning labour relations in force in the Member States
- 4) Workers' representatives are (unless specified in the articles) a) trade union representatives, namely, representatives designated or elected by trade unions or by members of such unions in accordance with national legislation and practice; (b) elected representatives, namely, representatives who are freely elected by the workers of the organisation, not under the domination or control of the employer in accordance with provisions of national laws or regulations or collective agreements and whose functions do not include activities which are the exclusive prerogative of trade unions, (c) where there exist (according to national law and practice) in the same organisation both trade union representatives and elected representatives, appropriate measures shall be taken to ensure that the existence of elected representatives is not used to undermine the position of the trade unions concerned or their representatives and to ensure that the exclusive prerogatives of trade unions shall be preserved, in particular their right to collective bargaining and to conclude a collective agreement and to have (digital) access to the workers.
- 5) Social dialogue, at EU or ILO level, refers to a dialogue between representatives of workers and employer that consists of information, consultation and negotiation (also called collective bargaining) which may lead, should the employer and labour so desire, to collective agreements under the conditions laid down by national legislation and practice.
- 6) Digitalisation: the use of digital technologies to change an organization model; it refers to enabling or improving processes by leveraging digital technologies and digitized data.
- 7) Artificial intelligence: there is no universally accepted definition of AI which is a generic term for a range of computer applications, however in its AI White Paper the European Commission uses the working definition as "a collection of technologies that combine data, algorithms and computing power". Data and algorithms are the main elements covered by this agreement.
- 8) Telework: a form of organising and/or performing work, using information technology, in the context of an employment contract/relationship, where work, which could also be performed at the employer's premises, is carried out away from those premises on a regular basis.

4. Teleworking

- 1) Regarding pay and working conditions, maternity protection, parental and care leave, training and career development, protection against harassment or any other forms of discrimination, teleworkers benefit from the same individual and collective rights, guaranteed by legislation and collective agreements, as at the employers' premises.
- 2) These rights include trade union rights to information, consultation and negotiation to shape the new working environment. The trade unions are involved in the definition of working conditions, modalities of which are defined in accordance with national law and practice. The administration facilitates the communication between trade unions and workers.
- 3) The same conditions for participating in and standing for elections to bodies representing workers or providing worker representation apply to teleworkers.
- 4) In line with the EU principle of equal treatment, every worker has the right to request to telework. Eligibility for telework is determined by the activities/tasks which can be

teleworked, not by the occupation itself. The assessment is based on transparent criteria defined in consultation or in negotiation with trade unions at the relevant level.

- 5) The rejection by the employer of the request to telework must be justified on clear, transparent, objective grounds (including organizational conditions) and communicated to the worker in writing and in a timely fashion.
- 6) The employee has the right to be heard in a contradictory procedure in accordance with the national, legal or internal proceedings of the administration.
- 7) Furthermore, apprentices and trainees are covered by these provisions and must be particularly supported. Their access to telework must be organised and the modalities must be specified.
- 8) Telework does not affect the worker's employment status. A worker's refusal to opt for telework is not, as such, a reason for terminating the employment relationship or changing the terms and conditions of employment of that worker.
- 9) It is voluntary for both the worker and the manager concerned and is reversible. Reversibility implies returning to the employers' premises, where the worker is primarily based, at the worker or employer's request. The modalities of reversibility are established at national level.
- 10) With a view to keep social cohesion and prevent individual isolation, the number of teleworked days per week or % of teleworked working hours is determined at the relevant level of the administration by either regulation or administrative decision and/or collective bargaining according to activities' assessments and the good organisation of the services.
- 11) Workers have the right to disconnect, which means they have the right to switch off their digital tools outside working hours without facing consequences for not replying to emails, phone calls or any other communication means.
- 12) The right to disconnect must be agreed with the trade unions at all relevant levels to ensure its effectiveness and respect of working time, breaks and rest time (11 hours a day as an EU minimum requirement), work/life balance and annual leave which are paramount to good working conditions but also to the smooth functioning of services. Telework calls for a particular vigilance of supervisors and workers, taking into account working conditions and workload, on the risk of excessive working hours and encroachment on personal life. This implies an obligation on the employers to ensure the implementation of the workers' right to disconnect and to properly inform workers on the applicable regulations and collective agreements and rules on when to be reachable and expected response times.
- 13) Derogations from the right to disconnect are limited to exceptional circumstances based on transparent, well-defined, objective criteria for certain activities for a definite period in negotiations with the trade unions at the relevant level.
- 14) As a rule, all technological equipment needed to telework are provided by the administration to teleworkers, unless they request to use their own equipment. This and other provisions are organized through regulation at national level or collective bargaining including the possibility for compensation for additional work-related expenses.
- 15) Within the limits of his/her missions, the manager facilitates social cohesion and a good relationship with workers, who also have a role to play as team members. Support and training are organized for managers and workers. Support for managers may cover the adaptation of their leadership style, how to be clear and transparent in order to maintain the necessary trust between management and staff, including in more complex forms of work such as teleworking or work situations such as new recruitments, trainees, or workers in a less secure employment situation. Teleworkers may benefit from specific training covering digital tools, support for the conduct of professional interactions, teleworking modalities, etc.

- 16) The work is evaluated on its results based on clear, transparent, fair and regularly reviewed objectives with the employees. A relationship of trust builds upon a work organisation, which is subject to regular dialogue between management and workers. It requires to communicate and explain how individual objectives are integrated into collective objectives and to earmark appropriate resources to carry out individual and collective activities.
- 17) The employer ensures that measures are taken to prevent teleworkers from being isolated from the rest of the working community, such as providing opportunities to meet and have regular and sufficient contacts with colleagues and management, at a distance as well as on site. These contacts are organized in order to maintain the collective and social cohesion and to organize efficiently and fairly teamwork and workload.
- 18) Support is in place to help workers deal with issues such as managing the workload, work-life balance, or IT systems.
- 19) Employers and workers and trade union or workers' representatives will assess regularly access to telework in terms of equality aspects.
- 20) The employer takes the appropriate measures, notably with regard to software, to ensure the protection of data used and processed by the teleworker for professional purposes. The employer informs and updates the teleworker of all relevant legislation and rules concerning data protection. It is the teleworker's responsibility to comply with these rules and to avoid any unauthorized access to professional data or applications. The employer informs the teleworker in particular of any restrictions on the use of IT equipment or tools and of the sanctions in case of non-compliance.
- 21) The use of telework does not prevent the right of users to contact and speak online or on site with a relevant official that deals with their file.

5. Health and safety

- 1) Whatever the work organisation and location, the employer has the same obligations in terms of prevention of occupational risks and is obliged to take the necessary and regulatory measures to ensure the safety of workers and protect their physical, mental and cognitive health
- 2) Digitalisation can potentially enhance workers' autonomy, working hours flexibility, work/life balance and improve quality of work by freeing up more time for more complex and rewarding tasks.
- 3) It can also increase work intensification, occupational health and safety risks such as those related to psychosocial risks, material work conditions, physical inactivity, electromagnetic fields, ergonomically unfit IT material, long working hours, isolation and blurring of work and private life, and real or perceived lack of protection of personal data.
- 4) It is agreed to promote a culture of prevention resting on the active participation of employers, employees, trade unions, health and safety bodies and labour inspectorates through a system of defined rights, responsibilities and duties.
- 5) It is reiterated that violence – be it verbal, physical, online, or gender-based and any forms of harassment including bullying, sexual harassment, by management, employees or third parties- is banned from the workplace and subject to a specific policy easily accessible. In view of increased telework, the administration takes into account the prevention and consequences of domestic violence.
- 6) Teleworkers benefit from the same protective and gender-responsive measures as at the employer's premises

- 7) The introduction or deepening of any forms of digitalization must comply with all relevant procedures and policies that deal with health and safety as provided for in national and EU legislation such as the framework directive on health and safety (89/391/EC) and the directive on certain aspects of the organisation of working time (2003/88/EC) as well as relevant collective agreements
- 8) Digitalisation will only be introduced or deepened taking into account health and safety issues for workers based on risk assessments.
- 9) Risk assessments are organized by employers in close consultation of trade unions. They should aim at ensuring physical, mental and cognitive health and prevent negative impact of digitalization, including artificial intelligence, on workers' health and safety. They may, as a minimum, include risk factors associated with:
 - staffing levels, workload, change of work organization or management, job content;
 - discriminatory factors;
 - any potential impacts or side effects from connected tools; working at night or alone or at home;
 - access to and quality of service.
- 10) In a context of teleworking, the administration provides teleworkers with ergonomically fit technological equipment, in line with national provisions, unless the teleworker requests to use his/her own equipment. Prior to the start of telework, the administration trains workers in the use of these tools, in information security and data protection and on main safety and health measures that they might be mindful of in carrying out their tasks.
- 11) Digitalisation is a possible lever for recruiting and keeping certain categories of staff in employment such as staff with disabilities. More generally, digitalisation is an additional tool for integrating and keeping at work those who are furthest away from it, whatever the reason. For employees in these particular situations, teleworking and other work organisations in no circumstances replace the legal arrangements related to sick leave, maternity, parental or career leave.
- 12) Digitalisation requires cooperation and communication with trade union representatives and all employees.
- 13) The employer organizes a reasonable and fair workload in consultation with employees concerned. It is the employee's obligation to cooperate, in accordance with national practice, with the employer and/or workers with specific responsibility for the safety and health of workers.
- 14) Safety and health inspectors are trained on issues related to digitalization.
- 15) Sufficient facility time is provided to workers and trade union representatives to attend trade union health and safety training related to digitalisation.

6.Skills development, training and qualifications

- 1) Training is essential to the adaptation to and success of digitalisation and the security of workers' professional future and personal development.
- 2) Training and lifelong learning are organized during working time, maximizing the possibilities for using e-learning, tailored to the needs of workers, paid for by the employer.
- 3) A well-trained workforce is a guarantee of a good quality administration.
- 4) Training is developed on the changes needed due to digitalisation and necessary requalifications or reskilling of workers to secure the future of their job or to support transition to another job in the administration.
- 5) Workers having difficulties with digitalised work or whose work is threatened by digitalization are entitled to specific additional support.

- 6) Quantitative training budget targets are based on a prior evaluation of training needs carried out in consultation of workers' representatives. Quantitative targets can be for instance the allocation of a certain percentage of payroll earmarked for training and lifelong learning.
- 7) Training benefits all workers and is distributed in a fair manner amongst workers in line with the EU Charter of fundamental human rights and EU equality directives which ban direct and indirect discrimination based on gender, social origin, real or presumed belonging to an ethnic group, nation or race, disability, sexual orientation, age and religion or belief.
- 8) Focused training is also organized to help managers in adapting their skills to the new style and relationship induced by digitalisation.

7. Data management and protection

- 1) The management of workers' personal data (collection, analysis, storage, off-boarding) is subject to specific rules by law or collective agreement, organized and controlled in a strict and transparent way, the principle being that those data cannot be shared with third parties and must comply with the General Data Protection Regulation (GDPR hereafter).
- 2) In all circumstances, workers must know what happens to their personal data and be in a position to make decisions about it and where needed able to review or rectify the data.
- 3) Workers, in line with GDPR, have the right not to be subject to a decision based solely on automated processing including profiling, and have the right to access easily information about the decisions made by automated means which have an impact on them and a right to human-based redress and effective remedies.
- 4) The responsibility of employers and workers is clearly defined regarding the respect and the protection of employee's and user's data.
- 5) The access to disaggregated data is restricted to a limited number of employees to avoid misuse of personal data.
- 6) The collection of data is realized only for a concrete and transparent purpose, not for a possible future undefined purpose.
- 7) Mutual trust is the guiding principle of any working relationship. Staff controls' procedures for security reasons concerning data management and protection are only allowed if defined and agreed with the unions.
- 8) Monitoring the performance of employees-must be transparent and in the limits provided for by law and by collective agreements. The employer must inform the employee of any monitoring provisions and respect the fundamental rights and freedoms of employees.
- 9) We consider it incompatible with human dignity for computers to measure employees' emotions or instruct employees how to feel.

8. Artificial intelligence

- 1) Artificial intelligence (AI), including deep learning and machine learning, is a tool, a means to an end, which should serve the common good, improve the quality of working conditions and of public services and support meaningful work.
- 2) Workers' representatives are closely involved at a timely stage before the introduction or deepening of AI systems in order to ensure that systems are user-friendly, comply with workers' rights and good working conditions and taking into account possible impacts on workers' autonomy, their skills and work satisfaction.
- 3) The administrations need to keep their full decision and control autonomy in implementing AI and make the necessary investment in public administrations' own IT expertise and skills.

- 4) AI systems may contribute to a better allocation of tasks between humans and machines and cannot replace the experience and capacity of humans and of social and emotional intelligence.
- 5) AI is governed by a "human-in-command" and "human-controlled" approach so that decision making remains transparent, explainable, comprehensible and reversible. Transparency disclosure is organized for AI processes, functional mechanisms and complete decision-making processes and parameters. Checks are organized to prevent or correct erroneous AI output. The option of not accepting a given type of AI at all is always kept open. To this effect, the administration ensures that it has access to the source code of algorithms.
- 6) AI systems are designed and operated to comply with existing law, including GDPR that guarantee privacy and dignity of the worker. To this effect, responsibilities and liability are defined without ambiguities.
- 7) Inclusiveness of AI is ensured whereby the administration does address and correct the gender and other bias in artificial intelligence.
- 8) Employers and trade union or workers' representatives assess regularly the safety and inclusiveness of AI taking into account gender, age, disability, social origin, real or presumed belonging to an ethnic group, nation or race, sexual orientation and other equality aspects and employees are duly informed.
- 9) Under no circumstances can AI be used to discriminate against on the ground of trade union membership and undermine fundamental trade unions rights.
- 10) The new tasks and jobs are designed with the support of social dialogue and/or collective bargaining. Job impact assessments are carried out in consultation with trade unions when developing AI systems, to assess at an early stage whether and which activities will be replaced, as well as how impacted employees need to be prepared for new tasks.
- 11) To prevent layoffs, requalification is provided to those whose jobs are threatened by AI.
- 12) Ethical guidelines are elaborated in close consultation of workers and their representatives, addressed to developers, programmers, decision-makers and employees involved in AI systems.

9. Access for users

- 1) The quality of users' access to the administration for users is guaranteed
- 2) A combination of physical and online services is put in place.
- 3) The possibility for the user to have a personal contact (digitalized or in presence) is kept. Limitations of access to services by digital way exclusively are avoided to keep human contacts and individualized advice possible for users.
- 4) Users' data are protected by the GDPR in terms of their rights to information, access, erasure, restriction of processing, data portability, to object and to avoid automated decision.

10 Additional clauses: Outsourcing, job protection and agile work

- 1) Given the need for data and transactions security and protection, outsourcing in digitalization must be strategically and technically justified and strictly monitored. Sound alternatives to outsourcing, should be carefully thought out before engaging in outsourcing.
- 2) Developing skills will be very important to ensure that workers are fully equipped and that the public sector doesn't have to rely on private providers.
- 3) Outsourced contracts are in any case transparent and accessible to all, provide for application of collective agreements and decent working conditions in outsourced companies.

- 4) Pay and working conditions protection is secured in the event of transfer of lower-valued activities in line with the EU directive on transfer of undertakings.
- 5) The impact of digitalization is anticipated and managed with a view to avoid job losses and disproportionate and unintended impacts on specific groups of workers and to support employment retention and creation as well as to the redesigning of jobs to better respond to citizens' needs and social cohesion. Instruments to be used are training for new tasks, improvement of skills, redesign of jobs. An impact assessment will be carried out on a regular basis in close consultation of the trade unions.
- 6) It is critical that workers and their trade union representatives are consulted in good time regarding the consequences of the introduction or deepening of digital tools so that trust in the process can be built.
- 7) The termination of jobs is a last resort measure following possible reduction of working time and ensuring support for transition with another employer and in all events is subject to severance payment.
- 8) In Member States where agile work is defined by laws and collective agreements, this present agreement applies for issues not regulated by those laws and collective agreements.

11. Implementation

- 1) Member States and/or social partners may maintain or introduce more favourable provisions than set out in this agreement.
- 2) Implementation of the provisions of this Agreement shall not constitute valid grounds for reducing the general level of protection afforded to workers in the field of this agreement.
- 3) In accordance with national law and practice, Member States encourage and guarantee that social partners can maintain, negotiate, conclude and enforce collective agreements which establish arrangements on digitalization at work provided that the principles and results sought by this agreement are ensured at all times.
- 4) This agreement shall not prejudice the right of social partners to conclude, at the appropriate level, agreements adapting and/or complementing the provisions of this agreement in order to take into account particular circumstances.
- 5) Member States shall adopt the laws, regulations and administrative provisions necessary to comply with the Council decision within a period of two years from its adoption or shall ensure that social partners introduce the necessary measures by way of agreement by the end of this period.
- 6) The prevention and settlement of disputes and grievances arising from the application of this Agreement shall be dealt with in accordance with national law, collective agreements and practice.
- 7) Without prejudice to the respective role of the Commission, national courts and the European Court of Justice, any matter relating to the interpretation of this agreement at European level should, in the first instance, be referred by the Commission to the signatory parties who will give an opinion.
- 8) The Commission, after consulting the Member States and the social partners at the Union level, shall submit a report to the European Parliament and to the Council on the implementation three years after publication in the official journal.
- 9) The signatory parties shall review this Agreement, three years after the date of the Council decision, if requested by one of the parties to this Agreement.