

European Agreement on guidelines on Telework and ICT-mobile work (T/ICTM) in Commerce¹

INTRODUCTION:

It has been 16 years since UNI Europa and EuroCommerce signed the European Agreement on guidelines for telework in the commerce sector. This agreement was breakthrough at that time, and even preceded the signature in July 2002 of the Framework Agreement on the same subject between the cross-industry social partners.

Today the digitalization of the economy and the use of e-commerce are bound to have an increasingly important weight on work organization, including the flexibility of the working location. At the same time the advancements of technology and the growing accessibility of the internet provide a variety of working possibilities alongside traditional teleworking. Therefore the social partners in the commerce sector agreed to review and update this agreement as follows:

1. The European social partners for commerce, *EUROCOMMERCE* and UNI Europa Commerce, are committed to developing the European framework for working life and labour relations in their industry primarily through a voluntary social dialogue and through the conclusion of European Framework Agreements.
2. As a dynamic part of the European economy, reacting to structural and technological development, changing and evolving consumer demands, the needs and aspirations of employees and the demand for new qualifications, the commerce trade is constantly developing its functions. This affects also work organization and the design of individual jobs and tasks
3. New technologies have made it possible to increase the range of tasks that can be undertaken at a physical distance from the permanent place of work. While this poses new challenges to employers and workers, it can also offer new opportunities and advantages to organize working hours in a more flexible way. T/ICTM work may have a positive impact on the quality of life, company's productivity as well as the environment. It reduces transport burdens and commuting to work which in turn generate savings in time, money and a decrease in the risk of stress related problems.

¹ The term "commerce" refers to the NACE Codes from G 45 to 47 covering retail and wholesale

It is important that any re-organization or job design, which would affect work done from a distance, using new technologies, is carefully organized and introduced.

4. In this agreement, T/ICTM refers to all work comparable to those which could be carried out by an employee at the workplace, but which may also be done from a distance, i.e. from the employees' home, an alternative office space or while mobile between work locations. Mutual is the use of smart technology, normally connected to the information network of the company.
5. Social partners for commerce in different Member States of the European Union have chosen or may choose to regulate T/ICTM in various ways, through particular agreements on appropriate levels or through integrating T/ICTM issues in existing collective agreements or recommendations. Whatever approach is selected, the following guidelines are recommended when introducing and implementing T/ICTM.

Introducing T/ICTM

6. T/ICTM can be a good solution for an employer or an employee during certain periods of life or when working at the company premises is for some reason not possible or is unnecessarily tedious. This allows the employment relationship to be continued and the professional qualifications to be retained.

It should be ensured that the important social contact with the workplace and the other workers is not lost. This aim can be achieved through a combination of T/ICTM and work on company premises. In other situations, virtual communities for the employees concerned could be created, using the available technologies. The right balance between T/ICTM and working at the company premises will vary among persons and tasks.

Additionally, in order to prevent possible problems of isolation, facilitation of compliance with company's goals, and preventing and managing conflicts, UNI Europa and EuroCommerce recommend that the company put in place open and flexible communication tools. This should allow the company to manage the supervision of the job content, the policy and organization of the particular department to which the T/ICTM worker belongs, allowing also the employees full participation in the work community.

7. The introduction of T/ICTM into a company should be transparent, respecting the existing information and consultation structures and procedures. T/ICTM work should

be voluntary for both parts and it should allow employees to create a better balance to their personal and professional life but still be as productive as possible for the employer.

8. Since work organization and the need to balance work- and family life can change over time, either part should be able to return to the former arrangement by giving notice as agreed in the national/local industrial relations law and practices.

Employment conditions

9. An employee who is doing T/ICTM is employed in the company on a similar basis as any other employees including comparable employment rights, remuneration structures and career opportunities. Referring to articles 2 (hiring of an employee) and 5 (modification of aspects of the employment relationship) of the Directive 91/533/EEC², essential aspects of employment conditions should be notified to the teleworker. This includes
 - identification of the parties
 - the place of regular work (or principle that the employee is employed at various places) and the registered place of business
 - the premises or situations possible for T/ICTM with details of forbidden locations/situations
 - the job description
 - the date of the beginning of the contract or of the employment relationship
 - the length of the employee's normal working day or week
 - the frequency at which T/ICTM is performed
 - the basic amount and other component elements of the remuneration to which the employee is entitled

In line with good employment relations and working practice, social partners also recommend that the following areas be explained to the T/ICTM worker

- Social security protection and insurance
- Supervision and consultation structures
- Data protection and confidentiality
- Training

² Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship – OJ L 288 of 18/10/1991

10. Legislation, collective agreement provisions when they exist, and whenever possible company regulations concerning working hours, should be applied for ICT/M-workers, in a way that is adapted to the particular circumstances.

T/ICTM workers should not be discriminated insofar as access to training and the professional development for T/ICTM workers is concerned and should enjoy equal opportunities with respect to employees working at companies' premises.

Holidays and absence

11. Absence due to sickness, holidays or other reasons should be communicated in accordance with the general practice of the enterprise. The company should bear in mind that arrangements may be needed to ensure that the tasks of the T/ICTM worker are taken care of during absence.

Tasks and confidentiality

12. When supervising and monitoring the work done by a distance worker, full respect must be given to any legislation and good practices to ensure the privacy and integrity of the worker. In doing this, particular attention must be paid to the restrictions on the right to register data.
13. The T/ICTM worker must respect the established rules of confidentiality in the enterprise and take reasonable steps so that confidential data cannot be accessed by non-authorized persons.

T/ICTM venues and equipment/health and safety

14. As a general rule, the employer is responsible for providing, installing and maintaining the equipment, programs and internet connections necessary for T/ICTM. Terms and conditions need to be agreed on before the commencement of T/ICTM. In some cases, the employee will use their own equipment. In others, the equipment provided by the employer may follow with the employee.

The company should provide appropriate technical support and data security software.

T/ICTM workers should take care of the equipment that is provided to her/him in accordance with national laws and agreements. The employer is responsible for the

costs of loss and damage to the equipment and data used by the employee.

Systems of compensation defined for costs generated by T/ICTM working are recommended. They should also cover insurance to cover damage to the equipment and any damage that may be caused to third parties or to the premises where the T/ICTM work is being carried out.

As far as possible, the venue where telework is done should be recognized as equivalent to other working premises of the company. The design of the workplace and the equipment that is being used is recommended, whenever possible, to conform to the same principles of good ergonomics as those that are applied at these premises.

15. The company is responsible for informing employees of their policy on health and safety and for providing information and education on the arrangement of good ergonomics and risk prevention.
16. Recognizing that the company has the right to issue guidelines on the proper use of its equipment and communication facilities, a T/ICTM worker has the same right as other employees in the company to communicate with his/her colleagues, using this equipment and facilities. This right must include communicating about matters relating to work and labour relations, with the trade union organization to which the T/ICTM worker belongs or with other bona fide personnel representatives. Communications between a T/ICTM worker and his/her personnel or trade union representatives must be kept confidential and must not be accessed by the company.
17. The T/ICTM worker must have the same right as other employees in the company to participate in any trade union or other personnel activities, including standing for elections in employees' representatives' bodies, which take place in the company or at company premises. T/ICTM workers are included in the calculation of the threshold for employees' representation bodies, in accordance with European and national law and collective agreements. However, participation in union activities and communications between the T/ICTM workers and their trade union representatives should not lead to unreasonable costs for the company, in comparison with those resulting from similar activities on the part of other personnel working at the premises of the employer.

Promotion, dissemination and monitoring

The social partners commit to informing, through all available means, trade unions, associations, and employers in the commerce sector and beyond about this joint declaration.

This will encourage the relevant social partners at national level to promote and address this joint declaration together. This could, for instance, take the form of joint meetings to explain its content, making joint presentations to national governments and other relevant stakeholders, undertaking joint studies or research activities.

To promote dissemination, this guideline should be translated into other official EU languages.

With a view to securing a sound monitoring of the implementation of this guideline for telework, EU social partners may send questionnaires to their members as well as to other important players in the commerce sector.

EU Social partners will encourage the collection of good practice examples on distance work and its dissemination among their members. *Brussels, 25 of May 2018*

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