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Factsheet for case **FR-2020-11/473**

New Telework rules: mandatory application, telework allowance and favourable tax treatment

Factsheet generated on 25 April 2020, 21:05

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| Country | France, applies nationwide |
| Time period | Open ended, started on 14 March 2020 |
| Type | Legislation or other statutory regulation |
| Category | Protection of workers at the workplace – Teleworking arrangements, remote working |
| Case created | 10 April 2020 (updated 24 April 2020) |

Background Information

Following the passage to stage 3 of the pandemic, teleworking becomes imperative for all positions that allow it. Teleworking is a right provided for in Article L. 1222-9 of the Labour Code, resulting from the Order of 22 September 2017, and must be favoured in phase 3 of the epidemic. An employee can therefore ask his employer to benefit from telework until further notice. The employer may refuse, but reasons must be given for the refusal.

Content of measure

Since the passage to stage 3 of the epidemic, the implementation of telework must be imperative as soon as the workstation allows it. Telework can be implemented when the workstation layout is made necessary to allow the continuity of the company's activity and to guarantee the protection of employees.

Article L. 1222-11 of the Labour Code mentions the risk of an epidemic as a possible justification for the use of telework without the employee's agreement. The implementation of telework in this context does not require any particular formalism.

In a circular, the ministry of Labour estimate the employee must receive an allowance intended to reimburse the employee for the costs arising from telework: 'In the context of the current health crisis – since telework is carried out, in the majority of cases, over the entire actual working time and is made necessary to allow the continuity of the company's activity, to guarantee the protection of employees and for reasons of public

health – it should be considered that the employer is obliged to pay his employee a telework allowance, intended to reimburse the employee for the costs arising from telework'. Indeed, the employer has an obligation to bear the professional expenses. This obligation is provided for without restriction by the case-law, which is of general application and must cover teleworkers.

'However, adds the ministry of Labour, in view of the difficulty of identifying and circumscribing the expenses relating to the professional activity and those relating to personal life, it is in the employer's interest to favour a lump sum which will simplify its management'.

If the allowance paid by the employer is a lump sum, it will then be deemed to be used in accordance with its purpose and will be exempt from social security contributions up to an overall limit of €10 per month for an employee who teleworks one day per week. This exempt lump-sum allowance increases to 20 € per month for an employee teleworking two days a week, 30 € per month for 3 days a week, etc.

Use of measure

In 2017, about 3.0% of employees were teleworking at least once a week. According to an INSEE economic report published on 26 March 2020, i.e. ten days after the start of confinement, approximately one third of employees are working at their usual place of work, one third are teleworking and the last third are on short-time working. On 15 March, in a press release, the Ministry of Labour estimates that close to 8 million jobs (or more than four out of ten jobs) are compatible with telework in the private sector.

Actors, target groups and funding

| Actors | Target groups | Funding |
|---------------------|----------------------------|-----------------------------|
| Company / Companies | employees All companies | No special funding required |

Social partners

| | |
|-------------------------|----------------|
| Role of social partners | No involvement |
| Form of involvement | Not applicable |

Social partners have welcomed the need to use telework as much as possible.

Sectors and occupations

This case is not sector-specific.

This case is not occupation-specific.

Sources

- 16 April 2020: Coronavirus : Questions/réponses pour les entreprises et les salariés (travail-emploi.gouv.fr)