The legal framework of on call duty for teleworkers

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Abstract

Today's Labour Law acknowledges the importance of flexibility in the individual work relationships by the widescale use of teleworking programs. However, the teleworking phenomenon proliferates in parallel with an opposite trend, by which teleworkers are less protected, as a consequence of the current practices by which they are required to respond work-related calls at any time, wherever they are, and the general standards regulating the working time are ignored. While the European Union states show obvious concern with removing such risks, the practice of the Court of Justice of the European Union, given in its interpretation of the Directive concerning certain aspects in the organization of working time, is extremely important. The present study starts from the analysis of certain points in the content of the Working Time Directive 2003/88 adopted across the European Union with regard to the working time, and goes on to provide an overview of relevant decisions issued by the CJEU on working time, then draws conclusions on the legal framework (juridical regime) of on-call duty in the case of teleworkers.

Keywords: *teleworking, remote work, non-standard employment, atypical work arrangements, the right to disconnect.*

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1. Preliminary considerations

The importance of work flexibility is widely recognized, as computer-based technology is advancing and activities become increasingly digitalized, both in the private and in the professional sphere. The increased flexibility of work arrangements often takes the form of remote work (generally *teleworking*[2] *or telecommuting*[3]*)* and has apparently made life easier for many workers. The newly-

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[2] Although in Romania teleworking was a relatively new concept until recently, the doctrine demonstrates obvious interest in this flexible work arrangement. See also M.-E. Marica, *Contracte de muncă atipice*, Universul Juridic Publishing House, Bucharest, 2019; A. Ștefănescu, *Munca la domiciliu și telemunca. Drept intern și comparat*, Universul Publishing House, Bucharest, 2011; A, Cioriciu Ștefănescu, *Condițiile speciale privind încheierea contractului de muncă la domiciliu – elemente de drept comparat*, in „Revista Română de Dreptul Muncii", no. 3/2008; Lupu Valentina-Lidia, *Teleworking and Its Benefits on Work-Life Balance*, International Multidisciplinary Scientific Conference on Social Sciences & Arts SGEM, Conference Proceedings, 2017, Albena.

[3] This is another concept designating remote work, both in the European Union and the USA (See A. Cioriciu Ștefănescu, *Condițiile speciale privind încheierea contractului de muncă la domiciliu – elemente de drept comparat*, in „Revista Română de Dreptul Muncii", no. 3/2008, p. 76).

gained freedom allowing better balance between the private and professional life of teleworkers has long been correlated positively with the generalization of remote work practices[4]. Today, however, telework is not only the expression of a policy that pursues greater flexibility of work arrangements, but also the consequence of significant changes in the organization of working time, that were generated by the Covid-19 pandemic[5]. This pandemic forced employees to work from home and to use technology even more intensively during the period(s) of lockdown (through, for example, video conferencing, email, etc.)[6]. Numerous surveys have demonstrated that teleworkers tend to work longer hours than office-based employees under a standard employment contract[7]. In other words, the teleworking phenomenon proliferates in parallel with an opposite trend: a decrease in teleworkers' health protection and security. This trend is generated by current practices that force teleworkers to answer work demands wherever they are and at any time, often even outside their working hours. Today teleworkers find it difficult to maintain the boundaries between private and professional life, since their workstation can be anywhere (airport, restaurant, park, etc.)[8].

Paradoxically, this trend seems to put at a disadvantage only one of the contractual parties, namely the one who does the work – the teleworker, who used to be regarded as enjoying complete freedom to manage the balance between private and professional life. Currently an atypical employment contract is proliferating on the labour market, which changes the paradigm of standard employment contract but does not fully correspond to the current legislative reality[9]. The contractual differences concerning the working time organization in the case of teleworkers may entail differences in their juridical treatment and may further result in discrimination in favor of standard workers and against the teleworkers. Although European states

[4] The topic is elaborated in Lupu Valentina-Lidia, *op. cit.*, p. 695.

[5] For instance, an Eurofound study reveals that in Portugal, during the pandemic years, the percentage of teleworkers increased from 15% in 2019 to 53% in 2020, while in France the same percentage reached 55% of the active population. This percentage also soared in Bulgaria, from 1% in 2019 to 28% in 2020. See Oscar Vargar Liabes (Research manager), *Telework, ICT-based mobile work in Europe: Trends, challenges and the right to disconnect,* Eurofound, 2021, (https://www.eurofound.europa.eu/publications/ presentation/telework-ict-based-mobile-work-in-europe-trends-challenges-and-the-right-to-disconnect, accessed 1.11.2022).

[6] See Lerouge, Loïc; Trujillo Pons, Francisco, *Contribution to the study on the 'right to disconnect' from work. Are France and Spain examples for other countries and EU law?*, in „European labour law journal", 2022, Vol.13 (3), p. 450.

[7] See Eurofound and the International Labour Office (2017), *Working anytime, anywhere: The effects on the world of work*, Publications Office of the European Union, Luxembourg, and the International Labour Office, Geneva, p. 1, (https://www.eurofound.europa.eu/ sites/default/files/ef_publication/field_ef_document/ef1658en.pdf).

[8] See Lerouge, Loïc; Trujillo Pons, Francisco, *op. cit.*, p. 450.

[9] General regulations and norms are not adequate for the current situation and needs of teleworkers. For instance, regarding work security and health, teleworkers are subject to the general legislation, which does not include specific norms for those working with display screen equipment. To a certain extent, general standards on working time also fail to address the challenges now faced by teleworkers.

are actively concerned with removing such differences[10] in the treatment of standard workers and teleworkers, respectively, with regard to the different number of working hours they put in daily, the practice given by the Court of Justice of the European Union in its interpretation of the Working Time Directive is extremely important. Therefore, starting from the analysis of aspects in the content of *The Working Time Directive 2003/88* adopted by European states in the matter of working hours, I have deemed it necessary to provide an overview of relevant decisions of the Court of Justice of the European Union on working time, which have allowed me to draw some conclusions on the juridical regulations of on call duty in the case of teleworkers.

2. The Working Time Directive 2003/88

The European Union regulations on working time are based on Directive 2003/88 which concerns aspects of working time organization. Its norms impose a minimum protection standard concerning the safety and health of workers, by setting a minimum rest period (daily, weekly or annually) which the member states have to observe[11]. Since in the member states' practices there are differences in the legislative views on working time organization, defining a set of principles, a uniform legislative framework across the European Union has become a primordial need of the member states, which has led to the adoption of The Working Time Directive 2003/88[12].

2.1 Definitions of „working time" and „rest period"

In the context of the Directive's provisions on certain aspects of the organization of working time, the phrase „working time" indicates any period during *which the worker is working, at the employer's disposal and carrying out his activity or duties, in accordance with national laws and/or practices.* Consequently, any period which is not „working time", is considered to be a „rest period"[13]. Actually, in light of this Directive, the rest period is a „residual concept"[14], that is, all the time outside the so-defined working time is rest time.

As far as work relationships are concerned, the matter of delimiting the working time is significant precisely because the Directive does not define any intermediate category between „working time" and „rest time". Moreover, the

[10] The European Parliament's Resolution of 21 January 2021 containing recommendations to the European Commission on the right to disconnect (2019/2181(INL), (https://www.europarl.europa.eu/doceo/document/TA-9-2021-0021_RO.html, accessed 2.11.2022).

[11] But they may introduce conditions more favorable to the workers, through their domestic legislation or through the collective agreements concluded between social partners.

[12] See Malcolm Sargeant & David Lewis, *Employment Law,* Taylor & Francis Ltd., ninth edition, 2020, p. 232.

[13] According to art. 2 in *The Working Time Directive 2003/88.*

[14] See E. Ales; M. Bell; O. Deinert; S. Robin-Olivier, *International and European Labour Law,* in „International and European Business Law", 2018, p. 1293.

intensity of work performed by the employee, and the work's results, are not among the distinctive elements of the „working time" concept as the Directive defines it[15]. The interpretation of aspects related to working time is not confined to verifying what „working time" is and considering all remaining time as „rest time", and so the role of the courts of justice becomes essential in this respect.

The dichotomy „working time" „rest time" may create significant difficulties in practice, in identifying the working time in the case of working duties accepted by *on-call* workers, who are constantly available for work even during their rest period. The Directive on certain aspects of the organization of working time does not offer much information on on-call duty[16]. The only one to address the delimitation of on-call duty as working time or rest period is the Court of Justice of the European Union whose jurisprudence has introduced a number of distinctions concerning the appreciation of on-call duty, the interval during which employees have to return to work if they are called back, and the extent to which the interruptions occurring during the workers' free time because of on-call duty considerably restrict their private activities. In its jurisprudence, the Court of Justice of the European Union aims to integrate the purpose of the Directive, as stated in art. 2[17] applying it to the concrete situations that have appeared, but because of the diversity of the newly-emerged types of working time of recent years, the decisions of the Court of Justice of the European Union are not always satisfactory[18]. I shall cite a number of cases in the jurisprudence of the Court of Justice of the European Union that address working time, and based on them I shall draw conclusions on on-call duty in the case of teleworkers.

2.2 European jurisprudential approaches on „working time" and „rest period"

The Directive aims to regulate certain aspects in the organization of working time, to ensure the safety and protect the health of workers, by guaranteeing a minimum period of rest; however, this aim is often challenged by the interruptions of workers' free time (off-duty hours), because of work-related calls. Also, because some employees are permanently available after their working hours, although this is regarded as rest time, their private lives are restricted, their personal and social interests are considerably affected. As modern work arrangements emerge in our increasingly digitalized world, the definition of working time (as it is described by

[15] Ibid, p. 1293.

[16] I note that in 2004 there was a failed attempt at modifying the Directive on working time, when the Commission initiated more far-reaching reform in its proposals. These proposals aimed to regulate on-call duty by defining the concepts of „on-call time" and „inactive part of on-call time". According to these proposals, if an on-call worker is not requested by the employer to return to work, this period should not be regarded as „working time". See Karl Riesenhuber *European Employment Law. A systematic exposition*, Intersentia Publishing House, 2021, pp. 528, 535, 536.

[17] According to art. 1 in Directive 2003/88 (Scope and Definitions) „The Directive lays down minimum safety and health requirements for the organization of working time."

[18] See Karl Riesenhuber, *op. cit.*, p. 534.

standard employment contracts) undergoes mutations. As specialist literature shows, the working time has become „decollectivized", standardization and synchronization have been abandoned and replaced by flexible, heterogeneous and individualized work schedules[19]. Since the current legislative regulations do not reflect the diversity of working time models that have emerged, the „working time" matter is today the prerogative of the Court of Justice of the European Union which has provided a number of relevant solutions in this respect:

- Case C-87 /14 *Commission v. Ireland EU*[20]: in this case, the European court ruled that the decisive factor in defining working time is the requirement that the worker should be physically present at the workplace indicated by the employer, and should be available to the employer, so that the worker is able to perform the work immediately if needed.
- Case C-518/15, *Ville de Nivelles vs. Rudy Matzak*[21]: in compliance with art. 2 in Directive 2003/88/CE.10 concerning certain aspects of the organization of working time, the Court of Justice of the European Union ruled that the stand-by time of a worker at home who is obliged to respond to calls from the employer within a short period must be regarded as working time, in accordance with article 2 in Directive 2003/88/CE.10.
- Case C-241/99, *Confederación Intersindical Galega (CIG) v. Servicio Galego de Saúde (Sergas)*[22]*:* time spent on call in the case of medical staff must be regarded in its entirety as working time if their physical presence is required in primary care, in agreement with the Directive.
- Case C-151/02, *Landeshauptstadt Kiel v. Norbert Jaeger*[23]*;* Case C-437/05 *Jan Vorel v. Nemocnice Český Krumlov*[24]*:* also regarding the on-call duty in the case of physicians and medical staff, the Court ruled that a distinction must be made between on-call duty when doctors must be present at the workplace, and on-call duty when the doctor must be contactable and available. If the doctor must be contactable at all times, then only the time while he/she does actual work must be regarded as working time, and the remaining time is to be regarded as rest time.
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ase – 518/15, *Ville de Nivelles v. Rudy Matzak*[25]. This solution offered by the Court of Justice of the European Union has generated an alternative approach: each

[19] See R. Dimitriu, *Dreptul muncii. Anxietăți ale prezentului,* Ed. Rentrop & Straton, Bucharest, 2016, p. 205.

[20] https://eur-lex.europa.eu/search.html?scope=EURLEX&text=Case+C-87%2F14&lang=en&type=quick&qid=1666603340513, accessed 24.10. 2022

[21] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62015CJ0518, accessed 13.10. 2022.

[22] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61999CO0241&qid=1666606295261, accessed 24.10.2022

[23] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62002CJ0151, accessed 24.10. 2022.

[24] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62005CO0437&qid=1666607730798, accessed 24.10.2022

[25] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62015CC0518&qid=1666611416647, accessed 24.10.2022.

particular case is analyzed in a general perspective. On this occasion the Court ruled that if a worker is obliged to be on stand-by duty (be available) at home and is required to respond to calls from the employer within 8 minutes, then this time is to be considered as „working time". This interpretation of the Court is aligned to the aim of Directive 2003/88 - art 2, namely guaranteeing a minimum protection with regard to the safety and health of workers, in the manner of organizing their working time[26].

3. The juridical regime of on-call duty in the case of teleworkers

A legislative solution in the matter of on-call duty and the stand-by period when the employees are available while they are not doing actual work, outside the working hours, in the case of teleworkers, can be constructed on the basis of this jurisprudence of the Court of Justice of the European Union. The current regulations, however, do not explicitly address the aspect of on-call duty in the case of teleworkers. As we have seen, the Court's jurisprudence generally interprets the stipulations of Directive 2003/88 as including not only solutions *in abstracto,* but mainly as rulings on the periods that can be defined and measured as working time or rest time in light of the particular circumstances for each particular case.

Regarding the application of Directive 2003/88/CE its provisions apply to „workers". Conceptually, the Directive does not offer a definition of the term „worker", nor does exempt any category of employees, irrespective of the type of their employment contract. The Court of Justice of the European Union has appreciated, however, that the worker can be defined as a „person who for a certain period of time performs work for, and under the authority, of another person, in exchange for remuneration"[27]. Since the stipulations of the Directive do not include derogations for digital workers, and the jurisprudence of the European Court does not exempt them from the application of this Directive, this obviously leads to the conclusion that the solutions given by the Court in the interpretation of the Directive equally apply to teleworkers as well. Let us apply this jurisprudence in the practice of teleworking, keeping in mind the nuanced solutions provided by the Court in its rulings.

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[26] In motivating its decision, the Court considered that: 1) the notions of „working time" and „rest period" are mutually exclusive, and the stand-by time spent by a worker in the service of his employer should be qualified as either „working time" or „rest period"; 2) the intensity of work performed by the employee or its results are not included among the characteristic elements of working time, in the understanding of the Directive; 3) the physical presence and availability of a worker at the workplace, in order to perform his work, must be considered as carrying out his duties, even though the actual activity varies, depending on the circumstances; 4) the decisive factor in determining the „working time", in the understanding of Directive 2003/88, is the fact that the worker has to be physically present at the workplace indicated by the employer, and be at the employer's disposal, so that he can immediately perform the respective work, if needed.

[27] See ECJ case C 337/10 – Georg Neidel vs. Stadt Frankfurt am Main (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX %3A62010CN0337&qid=1666686622180, accessed 25.10.2022).

a) On-call time duty of teleworkers outside their working hours. This hypothesis becomes very important, as the Court has ruled that only the time spent by the worker during actual work is evaluated as working time. In this context, there is a significant distinction between the active part of on-call time in the case of teleworkers, and the „inactive part of on-call time". In the sense of the latter notion, if the teleworker is not required by the employer to respond to a work-related call, the period of availability (stand-by) while the teleworker is ready to answer the call is not working time, but rest time, in light of the jurisprudence of the Court of Justice of the European Union. Conversely, the period while the teleworker is performing work during the on-call time, this should be always appreciated as working time. In this context we note that the legal operation of concluding a teleworker's employment contract does not presuppose, in the absence of an explicit clause, that the teleworker should be available at any moment, outside his/her working hours, in order to perform his/her work. In order to apply this into practice, the parties should negotiate and mention in the employment contract the hours when the teleworker is available to answer the employer's call[28]. Also, the teleworkers' unavailability to work outside the working hours does not entail any penalty from the employer. Moreover, these aspects concern only the working time. As far as remuneration is concerned, the situation is different. Thus, the Directive on certain aspects in the organization of working time does not specify the remuneration due for the period of availability accepted by workers outside their working hours[29]. Which means that for the time interval agreed on, through the employment contract, as a period of availability, the remuneration of the teleworker may be calculated in a different way than the payment received for the usual working hours. In this hypothesis whereby the teleworker is available to the employer outside the working hours, the parties may negotiate and the payment may vary depending on the degree to which the teleworker's private life is affected and restricted.

b) On call time duty of teleworkers, obliged to respond to employer's call within a short interval of time. In the context presented above, it is clear that the period while a teleworker is required to answer the call and perform actual work, is working time. However, as I have shown, the Court of Justice took a nuanced view of the time interval while the employee is expected to return to the workplace in order to work, nuances which modify the juridical regime (the legal provisions) concerning the working time. Thus, in the case where the teleworker is required to answer the employer's call within a few minutes (that is, a short time), this must be regarded as working time since the short period of time while the teleworkers must answer the call, has a negative impact on their freedom to manage their free time[30].

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[28] See Maria Violeta Duca, *Evoluții ale conceptului de flexicuritate în materia telemuncii,* in „Dreptul", new series, year XXXII, no. 7/2021, p. 53.

[29] See Karl Riesenhuber, *op. cit.*, p. 535.

[30] See *supra* Cauza – 518/15, *Ville de Nivelles v. Rudy Matzak*, according to which the stand-by time spent by a worker at his home, under the obligation of responding the employer's call within a short interval of time, must be regarded as „working time".

Based on the same considerations, specialized juridical literature states that the delimitation of working hours is dependent on the context. Thus, if brief interruptions of the free time of the workers exceed a reasonable amount of time and require considerable attention, then these interruptions must count as working time. On the other hand, if the worker is required to be available outside the working hours, in order to provide certain information (for instance, where have you parked your car?!), this period should not count as working time. Things are different if the personal, private and social activities of the workers are significantly restricted because of their availability entailed by on-call duty. In this latter hypothesis, the stand-by time outside the working hours is actual working time[31].

c) On-call time duty of teleworkers, obliged to respond to calls within a longer interval of time. Beside the hypotheses discussed above, there is the situation where the teleworker accepts the obligation to remain at the employer's disposal outside his/her working hours, but is allowed a longer time to answer the call. In keeping with the jurisprudence discussed here[32], the stand-by period of availability of the teleworker is not included in the working time, which includes only the period where the teleworker does the actual work. In this hypothesis too, there are variable circumstances, and the classification of this time period as working time does not depend only on the actual work performed by the teleworker. Since the teleworker cannot be obliged by the employer to be present at a certain place, indicated by the employer, and cannot be censored with regard to the activities carried out during the stand-by time, the employer's call to work could hinder or restrict the teleworkers' freedom to organize their free time.

As I have pointed out, the Court's decisions take each context into account, but not to such a degree that it removes any form of protection for the workers. Thus, even when the time interval within which a teleworker must respond to a work-related call is longer, if this poses significant restrictions and constraints on the private life of teleworkers, then the respective period should be treated and regarded as working time. Such a solution agrees with the purpose of the Working Time Directive 2003/88, namely protecting the workers by limiting the individual working hours, setting a maximum number of working hours and setting minimum standards for rest time.

4. The European legislative initiative concerning teleworkers' right to disconnect. Elements of comparative law

Faced with these challenges related to the treatment of the working time of teleworkers, one of the solutions proposed in the European Union through a directive draft is regulating the teleworkers' right to disconnect. On January 21, 2021, the European Parliament passed a resolution whereby it called on the European Commission to submit a proposal for an act on the right to disconnect[33], pointing out

[31] See Karl Riesenhuber, *op. cit.*, p. 534.
[32] See Case C-241/99, *Confederación Intersindical Galega (CIG) v. Servicio Galego de Saúde (Sergas)*.
[33] https://www.europarl.europa.eu/doceo/document/TA-9-2021-0021_RO.html, accessed 31.10.2022.

that „constant connectivity combined with high job demands and the rising expectation that workers are reachable at any time can negatively affect workers' fundamental rights, their work-life balance, and their physical and mental health and well-being"[34]. Its purpose is to explicitly acknowledge teleworkers' right not to be at the employer's disposal at a certain moment of the day. From a practical perspective, the employment contract of the teleworker will include explicit clauses regarding the availability time of the worker, specifying the on-line or off-line work regime within the working time agreed by the parties because the Directive draft does not make any mention on the moment when the worker disconnects from the virtual availability. During the period agreed to be off-line, the teleworker is no longer obliged to respond work-related calls and cannot be subject to any penalty from the employer.

So far, the contemporary teleworking model presupposed absolute availability of time and energy for the worker's professional activity. However, the adoption of the new directive concerning the right to disconnect or the right to log off generates a change of perspective, which will extend to include all European legislative systems, not only those that have already addressed and regulated – either through legislation or through collective employment contracts[35] aspects safeguarding the protection of workers' free time[36]. The Directive will be mandatorily enacted into national legislations.

Whereas the legislation of states such as **Germany, Bulgaria, Greece, the Netherlands, Romania** does not yet include stipulations to regulate the right to log off of teleworkers, there are also legislations that acknowledge the validity of the right to disconnect, either directly through their general regulations on teleworking, or indirectly through recommendations made to social partners, to include in the collective employment contracts aspects pertaining to the flexibility of teleworkers' working time, including their right to disconnect[37]. On the other hand, the **French** legislative model, which is considered to be the inspiration for most legal systems with regard to the right to log off, contains fundamental regulations in the French

[34] Point 2 in the European Parliament Resolution of 21 January, containing recommendations to the European Commission on the right to disconnect.

[35] For instance, although in Germany the national legislation does not include stipulations on the right to disconnect, a collective employment contract concluded by the BMW Group stipulated that the workers must agree with their supervisors on „fixed availability periods". The German automobile manufacturer Daimler has introduced a new policy allowing its workers to set their e-mail inbox to „holiday mode (Mail on holiday status)" while they are on vacation; this software automatically deletes all e-mails received by the vacationing workers. The sender automatically receives a reply informing that after a set time, e-mails will be deleted and is invited to contact another employee during this period. For further details, see Eurofound and the International Labour Office (2017), *Working anytime, anywhere: The effects on the world of work*, Publications Office of the European Union, Luxembourg, and the International Labour Office, Geneva, p. 50.

[36] Countries such as Belgium, France, Italy and Spain, have already put in place special legislation upholding the right to disconnect. For an analysis see Eurofound (2020), *Telework and ICT-based mobile work: Flexible working in the digital age*, New forms of employment series, Publications Office of the European Union, Luxembourg, p. 50.

[37] Eurofound (2020), *op. cit., (Telework and ICT...)*, p. 50.

Code, Article L. 4121-1 of the Labour Code, stipulating that the employer cannot ignore the impact of constant connection on employee health. Also, under the general principles of prevention against professional risks to which employees may be exposed, as mentioned in art. L. 4121-2 of the Labour Code, the employer is under the obligation to adapt work to the individual (principle 4) and also to take into account the development of technologies (principles 5). In this area and in order to take the necessary measures to ensure the safety and to protect the physical and mental health of workers, the employer shall provide information and training sessions (Article L. 4121-1 of the Labour Code)[38].

5. Conclusion

In the context presented above, an overview of the juridical regime (legislative framework) applicable to teleworkers in matters of organization of working time, leads to the conclusion that they can be applied, on the one hand, the general norms stipulated by Directive 2003/88/CE concerning certain aspects of the organization of working time which apply to all categories of employees, completed with a number of specific provisions operating at national level, which derive from these workers' situation (atypical work arrangement, with certain peculiarities related to the type and place of work). These specific provisions, however, are often incomplete or missing and fail to cover all the situations arising from teleworking. Although Directive 2003/88/CE does serve the purpose of regulating employees' right to a maximum length of working time, and a minimum rest time between two work days, as I have shown in real life teleworkers do not always enjoy complete freedom to manage their own free time.

Indeed, this initiative regulating the right to disconnect of teleworkers, in the sphere of European legislation, is an important factor that strengthens the protective spirit of European law and furthers the implementation of the European principle of flexicurity, under the aspect of teleworkers' safety and protection. Protection offered to teleworkers by this directive draft is directly linked to the protection safeguarding the safety and health of teleworkers and their protection against discrimination in favor of the workers on the employer's premises – because teleworkers tend to be exploited with regard to their working hours. Even though in some European Union countries (such as France), the respective governments have more actively sought to ensure the efficient protection of teleworkers by including the right to disconnect, it is essential that the legislations of member-states should be harmonized, in compliance with the general standards enforced by the future European Directive concerning the right to disconnect, in order to reduce the possible disparities at the level of national legislations.

[38] See Lerouge, Loïc ; Trujillo Pons, Francisco, *op. cit.*, p. 454.

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