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AlpSatellites in the evolving regulatory framework for remote working

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D1.4.2.

AlpSatellites in the evolving
regulatory framework
for remote working

Managing the transition
to hybrid work and
satellite offices to revitalize
remote mountain areas



D1.4.2. AlpSatellites in the evolving regulatory framework for remote working

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1 INTRODUCTION

The Alpine Space programme project AlpSatellites deals with the way how people work in the countries of the Alpine region, namely tackling challenges emanating from population decline, demographic change including an ever-increasing age gap, as well as urban-rural divide. AlpSatellites analyses the opportunities and challenges of remote work to attract and integrate young people, workers, and digital nomads in remote areas. In order to highlight the new opportunities for the digital, economic, and social development of alpine communities a need emerges to make peripheries attractive places for both people and businesses. This is especially true in an era in which the landscape of work is continuously evolving and – not least driven by the aftermath of the COVID-19 pandemic - the shift towards remote work has become a defining characteristic of the modern workforce. While AlpSatellites as well as numerous public (municipalities, regional authorities, or chambers of commerce) and private (consultancies, accelerators, development agencies, or start-up centres) institutions have developed managerial and spatial planning tools for incentivising and enabling remote work realities, legal perspective are more often than not considered obstacles on a holistic path towards modern work.

Therefore, this document presents an analysis of the legislative frameworks governing remote work across various countries of the Alpine Space, with a focus on France, Italy, and Austria. It delves into the intricacies of laws and regulations related to remote work, teleworking, and coworking spaces, highlighting the evolution, legal definitions, and the rights and obligations of both employers and employees in a new work environment.

The discussion extends to cover critical aspects such as the right to disconnect, workplace safety, and the challenges posed by the Covid-19 pandemic, which has significantly accelerated the adoption of remote working practices. This document is designed to provide insights into how these countries are reshaping their legal frameworks to accommodate and regulate the growing trend of remote work.

This document is primarily intended for policymakers, co-working space and HR practitioners, as well as (small) businesses who are navigating the complexities of remote work regulations. It serves as a resource for those seeking to understand the legal landscape and ensure compliance, as well as for academics and researchers interested in the evolving nature of work in the digital age. This document is designed to offer a broad understanding of the laws and regulatory structures pertaining to remote work, serving as an initial guide for deeper exploration or for seeking advice from qualified legal experts. However, it should not be regarded as a legally binding document.

In summary, remote work laws in Austria, Italy, and France share some common features. A fundamental principle in all three countries is the voluntary nature of remote work, requiring the consent of both employers and employees. Another common aspect involves written agreements, which are required in all three countries to ensure clarity and transparency regarding remote work arrangements. Adherence to existing working time regulations is another shared element, ensuring that rest periods and other time-related provisions are observed within the context of remote work. In every country there is the right to disconnect. The right to disconnect means that the employee, in consultation with their employer, establishes a schedule. This schedule specifies the times when the employee is reachable and the times when they should not be disturbed. This allows the employee to disconnect from any use of digital tools during their rest periods. The provision of work equipment by employers and potential compensation for remote workers are also points addressed in the remote work laws of these countries. Additionally, the laws emphasise the protection of the privacy of remote workers and establish clear regulations for regulatory inspections, possibly requiring the consent of the employee. It is also noteworthy that remote workers have the same rights as those working on-site. In all countries, they are entitled to accident insurance that covers specific incidents occurring outside the worker's residence.

2 FRAMEWORKS FOR REMOTE WORK AND COWORKING

Analyzing the evolution of the legislative framework for remote work in France, Italy, and Austria holds significant importance for several reasons. Understanding the legal foundations governing remote work provides clarity on the rights, responsibilities, and obligations of both employers and employees. These analyses shed light on how these countries adapt their legal systems to accommodate changing work dynamics, accelerated by technological advancements and the COVID-19 pandemic. Furthermore, examining the legislative changes prioritizes and protects the rights of remote workers. Elements such as voluntary participation, equipment provisions, working time regulations, safety measures, and dispute resolution mechanisms ensure a fair and secure working environment. For businesses operating across these countries or considering international expansion, understanding the differences and similarities in remote work legislation is crucial for compliance and strategy formulation. It aids in adapting to diverse legal frameworks and formulating effective remote work policies. Moreover, analyzing these legislative frameworks helps comprehend the implications for global workforce management, cross-border taxation, compliance with international labor standards, and the challenges of remote work in different jurisdictions. Finally, understanding how legislation addresses employee well-being, work-life balance, and the integration of personal and professional life is crucial. This analysis serves as a guidepost for navigating the complexities of remote work legislation, fostering compliance, equitable workplaces, and informed decision-making for all involved in shaping the future of work.

2.1 Analysis of the evolution of the legislative framework for remote work in France

From 1990 to now, the remote work legislative framework has changed a lot. The box following presents key dates of the construction of the framework.

The continuous development of remote work in France has necessitated changes in legislation.

- 1990s: first experimental company agreements (IBM France)
- 16 July 2002: European Framework Agreement on remote work
- 19 July 2005: The first National Interprofessional Agreement (ANI/INA) the labor - - 22 March 2012: The labor code has been completed by the law n°2012-387 of March 22, 2012, which set the legal framework of remote work (see articles L1222-9 to L1222-11).

- 22 September 2017: Also completed by the Macron ordinance n°2017- which made the organization of remote work more flexible and secure.

- 29 March 2018: Law rectifying the Macron order n°2017-1387 of 22 September 2017 on remote work

- 26 November 2020: signature of a new INA on remote work (extended on 2 April 2021 by extension order published in the OJ on 13 April 2021). Following the beginning of the health crisis, this text provides a framework for regular remote work, and is intended to offer a tool to assist social dialogue.

2.1.1 Regulation of remote work

Following we delve deeper into the several aspects and laws regarding remote work in France.

Legal definition of remote work

In France, the legal definition of remote work is: “Work whose activities are carried out away from the company’s site” (JORF n°0071 of march 23, 2012, LAW n° 2012-387 of march 22, 2012).

A remote worker is someone who practices remote work. According to the law, he/she performs his/her work by means of new communication technologies at home or in a third place. The law n° 2012-387 of March 22, 2012, relating to the Labor Code gives a legal framework to remote work. It specifies, moreover, that the work must be based on voluntary work and must not be sudden. It is then an agreement between an employer and the employee.

The law on remote work is relatively flexible. For example, to set up a remote work system, it is sometimes enough to have an agreement between the employee and the employer. However, some companies prefer to use collective agreements or internal charters. In any case, the employee’s contract will not change once he/she is working remote.

Obligations for companies

According to the law, a company can propose to one or more of its employees to work from home if they wish, but this must remain voluntary. In case of refusal, the employee continues to work as before. The refusal to telework by an employee cannot be sanctioned by the company. Moreover, the missions that will have to be carried out outside the walls of the company must be compatible with remote work. Also, the company will have to ensure good working conditions for its employees in the tasks that will be entrusted to them even if they carry them out outside the company. For example, the company will have to install the employee in his new workplace, whether at home or elsewhere. This will include the financing and maintenance of the necessary computer equipment (e.g., computer, second screen, printer, desk lamp, headset, microphone, smartphone, etc.). However, if the employee uses his own equip-

ment and not the one provided by his employer, the company will not be responsible for its maintenance.

Duties of professionals

To ensure that employees have equal access to remote work, the company will have to decide on the conditions of eligibility for remote work (e.g., eligible positions, years of service, etc.) If this is not the case, the employee who is refused remote work can sue the company. It is also possible for a company to refuse 100% remote work.

Remote workers' rights

According to the law, as soon as a remote worker wishes to do so, he or she can return to the company premises as stipulated in the employment contract. However, the employer cannot force the remote worker to return against his will without a valid reason. In any case, the employer has an obligation to inform the employee about the remote work opportunities and to inform about the position with or without remote work. For each company, it is the collective agreements and internal charters that specify the employee's rights regarding remote work. These documents will specify, among other things, the conditions of implementation of remote work, the modalities related to the control or regulation of working time and workload, the hours during which exchanges with the company can take place, the modalities of access to remote work for disabled people, etc.

Article L. 1222-9 of the French Labor Code specifies that when remote working, the employee does not lose his salary rights. He will therefore be covered by social security in case of an accident during his working time, even outside the company. Also, according to labor legislation, the employee has the right to "disconnect" and will fix, with his employer, his schedule not to be disturbed outside these hours so that he can disconnect from any digital tool during his rest time.

Duties of remote workers

A remote worker is an employee and must, therefore, respect the clauses of his/her employment contract. For example, he/she must be reachable during his/her working hours and fulfill the missions that have been entrusted to him/her. If this is not the case, the employee may be sanctioned as provided for by law. As for an employee, in the event of a dispute with the employer, the employee will have to appeal to the "tribunal des rud'hommes" (article L. 1411-1 of the Labor Code).

In the public sector

As in the private sector, an employee of the public service can benefit from remote working to carry out his activity. The employer will have to provide and maintain the equipment needed to carry out the tasks. As in the private sector, the social security system will cover any accident that occurs during the performance of his duties. On the other hand, unlike the private sector, in the public sector only a maximum of 3 days can be worked remotely (agreement of July 13, 2021, on remote work in the public service).

2.1.2 Regulation of coworking spaces

As we studied coworking spaces and their role in the willingness of remote workers to settle in mountain areas, we found it important to explore French regulations concerning coworking spaces.

Possible statutes for coworking spaces

In France, coworking spaces must be declared as soon as they are created and before their initial use. According to the law, a coworking space can be classified as an ERP ("Espace Receptant du Public") or an ERT ("Espace Receptant des Travailleurs"). While it's common for coworking spaces to be declared as an ERP, occasionally they are classified as an ERT. Being declared as an ERT subjects it only to the regulations of the labor code. However, if declared as an ERP, it must comply with both the work code and the construction and housing code. Notably, if the space is classified as an ERT, it cannot receive the public.

What is an ERP?

Article R143-2 of the Construction and Housing Code defines ERP as follows:

"All buildings, premises and enclosures in which people are admitted, either freely or in return for payment or participation of any kind, or in which meetings are held that are open to all or by invitation, whether or not they are subject to payment, constitute establishments open to the public (ERP). All persons admitted to the facility in any capacity in addition to the staff shall be considered part of the public."

Also, the owners or managers of coworking spaces will have to respect certain points, such as:

- Comply with fire safety regulations and disabled access
- Obtain an authorization issued by the administrative authority prior to any modification, creation or development of an ERP

It's advisable for those planning to open a coworking space to engage a specialized technical controller beforehand to ensure project feasibility. This is mandatory by law for 1st, 2nd, 3rd and 4th category ERPs. Indeed, there are different categories and types of ERPs according to their capacity of reception and according to the nature of their exploitation. If the coworking space does not receive more than 200 people in total in terms of public, it remains classified in 5th category, which is the least restricted.

What is an ERT?

If a coworking space does not admit any public, only members or invited individuals by name or reservation, it can be classified as an ERT. ERTs are less regulated and are governed solely by the labor code. In this scenario, the absent employer delegates daily supervision to the on-site manager. For example, even if the company is initiating the space, its manager will be responsible for the behavior of the individuals in the space as a place and thus for the respect of the instructions in case of fire and for the training of the coworkers to the safety instruction.

As ERT regulations are more flexible than ERP regulations, the safety commission doesn't need to visit the premises before opening. Additionally, intervention by a technical controller isn't mandatory. Periodic security commission visits aren't imposed for ERTs, unlike ERPs in the first 4 categories.

Coworkers' rights

To ensure that coworking space managers respect their duties, coworkers can, before moving into a coworking space, ask to see the supporting documents.

If the manager doesn't adhere to the rules, leading to an incident, their liability may be questioned.

For coworkers considered as "neo-nomadic", who often change spaces, a tool, called the PASS Coworking, allows them to refer to a trusted third party who will check the commitments of the manager of the visited spaces via a platform. SYNAPHE, a professional organization for business centers and coworking spaces, is considering establishing a standard. This standard aims to assist space managers or aspiring managers in meeting coworker and company expectations, particularly in terms of control. Following this process could lead to obtaining a periodically reviewed certificate, signifying quality. However, this may pose financial challenges for smaller structures.

2.2 Analysis of the evolution of the legislative framework for remote work in Italy

2.2.1 Introduction

The global spread of remote work (in Italian literally *lavoro agile*) has been facilitated by the COVID-19 pandemic. Governments implemented measures to curb the spread of the virus, restricting people's movement and subsequently causing a slowdown in non-essential production activities. This situation prompted a substantial shift towards flexible working, characterized by tasks performed without constraints on time or location, facilitated by technological tools. Over time, it has become increasingly recognized that remote work offers numerous benefits to employees, fostering greater autonomy, heightened productivity, and reducing commuting time. Consequently, remote work has evolved into a tangible reality, representing a new paradigm of work that is both ubiquitous and devoid of temporal constraints.

However, challenges can arise in relation to actual hours worked vs assigned working hours and maintaining a healthy work-life balance. This is where the concept of the right to disconnect becomes relevant as a solution that enables employees to choose to disconnect from digital devices without facing adverse outcomes in terms of pay or job continuity. This approach addresses the issue of employees being excessively connected to company tools beyond offi-

cial working hours, acknowledging the potential detrimental effect of this phenomenon on both physical and mental well-being.

Throughout the history of industrial society, the concept of employment has traditionally involved the notion of a physical workspace owned by the employer, where work activities are carried out under the direct or indirect supervision of company management. However, the emergence of phenomena such as telecommuting and homeworking, and subsequently the advent of remote work (flexible/hybrid) working, have challenged this conventional approach, paving the way for the gradual establishment of remote work practices.

Building upon these foundational shifts, the following page will examine Italian legislation concerning:

- Homeworking
- Teleworking
- Flexible work/Remote work
- The Right to Disconnect
- Limitations within the Italian legal framework.

2.2.2 Homeworking

Under the Italian legal framework, Law No 877 of 18 December 1973 defines a homeworker as an individual engaged in a worker-employer relationship, undertaking work either in their own residence or in designated premises. This may also involve the ancillary support of cohabiting and dependent family members, excluding paid labour and apprentices. The tasks performed encompass paid work on behalf of one or more entrepreneurs, utilizing raw materials, accessory materials, and equipment owned by either the homeworker or the entrepreneur, even if supplied by third parties. Subordination is evident when the homeworker is obliged to adhere to the entrepreneur's orders regarding the method, features and requirements of the service. This applies to the partial execution, completion, or entire processing of products related to the client's business activities.

2.2.3 Teleworking

Teleworking involves an employee carrying out their duties at home, connected to the company's central offices through information technology, effectively eliminating the challenges associated with commuting. Coined in the 1970s, the term 'telework' denotes tasks executed outside the traditional workplace, facilitated by technologies that establish a connection with the work environment where these tasks are usually carried out. The advent of the pandemic marked a pivotal moment for teleworking, with an increasing number of companies and institutions adopting this approach to safeguard their employees' well-being while maintaining business and operational continuity.

On the European scale, the pivotal document is the Framework Agreement¹ brokered in Brussels on 16 July 2002 be-

¹ The text is available at https://www.gms-srl.it/_resources/Teletlavoro%20accordo_quadro_16_luglio_2002.pdf

tween organizations representing workers and employers. Subsequently, the agreement was adopted in Italy through the *Accordo interconfederale* on 9 June 2004². This agreement was endorsed by the most influential national trade unions and by organizations of business representatives. The *Accordo interconfederale* mandates adherence to its regulations by all stakeholders—businesses, workers, and their respective representative bodies at various levels—as associated with the endorsing organizations. As such, it stands as an agreement that obliges nearly all private companies operating in Italy to uphold its provisions. This agreement recognizes that teleworking must be a deliberate decision made jointly by the employer and the employee. It can either be stipulated in the initial job description or stem from a voluntary commitment made subsequently. In either scenario, the employer is obliged to provide the relevant information in written form. Should an employee express a desire to transition to telework, the employer has the right to accept or decline. If accepted, the teleworker is entitled to the same rights as an equivalent individual working on the company's premises. Nevertheless, to accommodate the unique nature of teleworking, specific supplementary agreements, whether collective or individual, may be implemented.

The employer is accountable for safeguarding the health and ensuring the safety of the teleworker and is obliged to communicate the company's occupational health and safety policies to the teleworker, especially concerning exposure to video displays. The employer must take measures to prevent the isolation of the teleworker from other workers by ensuring the opportunity to meet regularly with colleagues and access company information. Teleworkers shall enjoy the same opportunities for access to training and career development as comparable workers performing activities on the company's premises and shall be subject to the same evaluation criteria. In addition, they shall receive specific training on the technical working tools available to them and the peculiarities of teleworking. Additionally, they enjoy the same collective rights as workers working within the enterprise and their communication with workers' representatives should not be hindered.

2.2.4 Flexible work/remote work

Flexible work is referred to specifically in Directive (EU) 2019/1158 of the European Parliament and of the Council dated 20 June 2019, addressing work-life balance for parents and caregivers at European level. In the context of Italy, the transposition of this directive occurred through Legislative Decree No 105 on 30 June 2022. The regulations on flexible working/remote work (in Italy referred to as *lavoro agile* or *smart working*) in the private sector are established by Law No 81 of 22 May 2017, to be referred to for the relevant aspects of flexible work in Italy.

Chapter II (Articles 18-24) of Law 81/2017 is dedicated to

lavoro agile. It should be emphasized that the terms teleworking and flexible/remote work, although sharing certain similarities, refer to two different concepts. Teleworking involves following set working hours similar to office-based work and using a dedicated workstation in a location outside the company headquarters. This arrangement is governed (in Italy) by the aforementioned *Accordo Interconfederale*. Flexible/remote work instead features flexible hours, does not require a fixed location, and is regulated (in Italy) by Law 81/2017.

The legislation encourages remote work as a strategy to improve competitiveness and foster a more balanced work-life dynamic. The adoption of remote work is subject to a mutual agreement between the parties involved and can be organized based on phases, cycles and objectives. This approach does not impose strict constraints on the hours or location of work, allowing flexibility and the possible use of technology in task execution. The work is conducted partly on the company premises and partly elsewhere, without a fixed location, adhering to the established maximum limits of daily and weekly working hours as defined by both legal provisions and collective bargaining agreements.

The employer bears the responsibility for ensuring the safe and effective operation of the technology provided to the employee. Specifically regarding workplace safety, the employer must provide the worker and the workers' safety representative with a written report, at least once a year. This report should identify both general and specific risks associated with the specific manner in which the work is conducted. In turn, the worker is obliged to collaborate in the implementation of preventive measures established by the employer.

A worker who performs remote work is entitled to the same remuneration and terms and conditions of employment as those applied to workers who perform the same tasks exclusively within the company premises. They may be granted the right to lifelong learning and periodic certification of skills. In addition, they are entitled to protection against accidents at work and work-related illnesses caused by risks connected to work performed outside the company premises and protection against accidents occurring during the normal journey to and from the place of residence and the place chosen for the performance of work outside the company premises.

According to Article 18, paragraph 3-bis, employers are obliged to prioritize requests for remote work from employees with children up to twelve years of age, or without any age limit in the case of children with disabilities. Similarly, the same priority must be extended by the employer to requests from workers with disabilities facing a situation of proven difficulty. A worker making a request for remote work may not be met with sanctions, demotion, dismissal, transfer, or any other organizational measure with direct or indirect adverse effects on working conditions. Any measure

² <http://erc-online.eu/wp-content/uploads/2014/04/2006-01444-EN.pdf>.

contravening this provision is deemed retaliatory or discriminatory and is consequently considered null and void. According to Article 19 of Law 81/2017, the agreement pertaining to the remote working arrangement must be formally established in writing, on either a temporary or fixed-term basis. This written agreement serves the purposes of proper administration and recording of evidence and is required to regulate the execution of work conducted outside the company premises, including aspects such as the exercise of the employer's managerial authority, tools utilized by the worker, the worker's rest intervals, and the technical and organizational measures essential for ensuring the worker's disconnection from work-based digital technology.

The Decree Proroghe 2023 – Decree-Law of September 29, 2023, No. 132 *'Disposizioni urgenti in materia di proroga di termini normative e versamenti fiscali (Urgent provisions on the extension of regulatory deadlines and tax payments)* in force from 30 September 2023, provides for the extension until 31 December 2023, of 'simplified' remote work for private and public workers referred to as "fragile." The term "fragile" refers to those who meet the criteria set by the Ministerial Decree of 4 February 2022 (Article 28-bis), which identifies chronic and particularly severe illnesses.

2.2.5 The right to disconnect

The abundance of literature on this topic highlights the strong interest of the academic community in this emerging concept. Nevertheless, it is important to point out that legal scholars, in particular, have expressed concerns about the efficacy of the right to disconnect. The challenge lies in determining whether this right is indeed a concrete entitlement or whether it represents a duty imposed on the employer.

Hence, some individuals have recognized the right to disconnect as the employee's entitlement to be unavailable. This perspective stresses that it is not about the right to go offline or disconnect entirely, as portrayed by the media hype. Rather, it is the right to choose when to be online selectively, allowing the individual not to be reachable during specific times of the day. This is aimed at safeguarding the worker from continuous work or from working hours that may lead to, or foster, forms of workaholism. Some characterize the right to disconnect as a solution to shield workers from excessive workload and the constant stress of connectivity, which, for effective implementation, requires the well-organized management of human resources and a proper allocation of working hours in proportion to the workload. Some argue more prominently for the obligation to be imposed on the employer due to the inherent link between the right to disconnect and the essential rest periods for employees. Considering the non-negotiable nature of daily rest, weekly rest and holidays designed to safeguard the well-being of the worker, it is evident that the right to disconnect, besides being a right, also constitutes a duty incumbent upon the employer.

In the context of Italy, as previously indicated, Law No 81 of 22 May 2017 introduced remote work but did not explicitly acknowledge a standalone right to disconnect for the worker. Instead, in accordance with Article 19 of this law, it was determined that the worker's rest periods and the technical and organizational measures required for disconnecting from work-related technological devices be established in the agreement governing this mode of work.

In response to the COVID-19 pandemic and the increased reliance on remote work, the Italian legislator reviewed the subject through Law No 61 of 6 May 2021, which converted Decree-Law No 30 of 13 March 2021. This decree addressed urgent measures to combat the spread of COVID-19 and provided support measures for workers with children engaged in distance learning or under quarantine. According to Article 2(1-ter), the law stipulates that, without prejudice to the civil service regulations on remote work established by national collective agreements, a worker engaged in remote work has the right to disconnect from technological devices and IT platforms. This right is subject to any agreements reached by the parties, with no impact on the employment relationship or remuneration, and it is not affected by any agreed stand-by periods.

Furthermore, it is important to note the national collective labour agreement for workers in the Education and Research sector for the period 2016/2018, under Article 22(4) specifies that the overarching criteria for using technological work tools beyond regular working hours are contingent upon additional agreements with the individual schools and educational institutions.

Additionally, the national collective labour agreement for middle managers and professionals employed by credit, financial and instrumental enterprises, dated 19 December 2019 stipulates that remote work must be conducted within the daily and weekly working hours established by the collective agreement, adhering to regulations on breaks and rest. Workers have the option to disconnect from work devices to avoid receiving company communications beyond working hours or during legitimate periods of absence.

Lastly, the national protocol on remote working, endorsed on 7 December 2021 at the Ministry of Labour and Social Policies, establishes that remote working requires the formalization of an individual agreement in writing. This agreement should specify, among other things, the worker's rest periods and the technical and/or organizational measures for disconnection. Specifically, as outlined in Article 3, remote working can be structured into designated time slots, each with an established disconnection period during which the worker is not engaged in work. Precise technical and/or organizational measures must be implemented to ensure adherence to the disconnection time frame. In instances of approved absence (such as illness, accidents, paid leave, holidays, etc.), the worker has the option to disconnect from work devices. Should company communications be received during such periods, the employee is not obliged to respond until the scheduled return to work.

2.2.6 Limitations of Italian legislation

Italian legislation dates back to 2017, and since then, especially in the post-pandemic period, there has been a radical change in perspective. Therefore, we need to highlight some limitations of the Italian legislation that governs remote work, both in the private and public sectors. First and foremost, it's crucial to note the absence of comprehensive legislation on the matter. Article 18 of Law No 81/2017 places remote work alongside other modes of work (such as teleworking or home-working), sharing some characteristics but differing in the non-continuous nature of the service performed outside the company premises. In Italy today, there is a need for legislation that regulates and emphasizes the distinctions between these individual scenarios. Secondly, emphasizing the need for structured legislation in this regard, there is a call to introduce specific regulations for the use of remote work by vulnerable/fragile workers to ensure parents/guardians/carers have the right of access to this mode of work. Thirdly, the National Protocol has the limitation of not adequately regulating the issue of choice of workplace. In fact, the Protocol merely acknowledges the worker's ability to choose but does not specify anything regarding the employer's responsibility to ensure the safety of the workplace. This aspect is particularly relevant concerning coworking spaces. Both public and private enterprises might designate coworking spaces as a third-party area (*a tertium genus*) for carrying out work activities. On this matter, there are three main issues to address: a) the restructuring of spaces for remote work; b) the costs of renting workstations; c) the need for suitable technological devices. On this matter in particular, Italian public administration seems to have taken a step backward: on 30 November 2021, an agreement was reached with trade unions, indicating, on the one hand of the preference for office-based work for executives and those performing supervisory and coordinating tasks, and on the other hand, a particular focus on those in conditions of special need. As a result, the current use of remote work is limited to a maximum of one or two days per week. This approach is very limiting if the goal is to leverage remote work for repopulating rural sparsely populated locations.

2.2.7 Conclusion

The adoption of remote work, both in Italy and elsewhere, was initially restrained, likely due to a managerial culture not yet prepared for this shift and still attached to the concept of centralized and on-site control of workers. The COVID-19 pandemic provided a decisive impetus towards reconsidering the relationship between the worker and the workplace. The adoption of remote work made it possible to reconcile the needs of health protection and the economy, i.e., to adhere to restrictions on freedom of movement while facilitating the continuation of productive activities. It has been argued that what took place in Italy from the early months of 2020 was an extreme and forced experiment of remote work since workers had no choice but to work

from home. The question now is whether, with the end of the state of emergency, remote work will firmly establish itself and become the norm for a growing number of workers and businesses. A reevaluation of the existing paradigm is necessary. Indeed, remote work demands an organizational structure based on projects and divided into phases, pathways and cycles.

The positive effects appear undeniable, both in terms of productivity and work organization, and also, for example, environmental protection, given that remote work tends to reduce commuting, thus lowering the environmental impact associated with the energy consumption required for work activities, as well as for heating and cooling office spaces. There is, however, something that does not appear destined to change. Those who work outside the company premises enjoy the same rights as a worker performing activities within the company premises. Therefore, forms of discrimination that undermine the condition of those working remotely cannot be accepted. At the same time, however, we must bear in mind that the situation of those working outside the company premises is not entirely identical to that of office-based workers. Hence the need for specific protective measures, such as the right to disconnect.

2.3 Analysis of the evolution of the legislative framework for remote work in Austria

The landscape of work has undergone a transformative shift, propelled by technological advancements, societal changes, and, most recently, the global response to the COVID-19 pandemic. Among the various facets of this evolution, remote work has emerged as a central theme, offering unprecedented flexibility and redefining traditional notions of the workplace. Austria, nestled at the heart of Europe, has not remained untouched by this paradigm shift. Acknowledging the profound impact and rising relevance of remote work, the Austrian Parliament enacted significant legislative changes in April 2021, ushering in a new era of regulatory frameworks governing working from home.

The complexities surrounding remote work extend beyond the mere relocation of workspaces; they delve into intricate legal considerations, shaping the dynamics between employers and employees. This comprehensive document aims to unravel the intricacies of Austria's legal landscape concerning remote work, placing a specific emphasis on the nuances of working from home. Against the backdrop of the voluntary nature of remote work and the consequential need for written agreements, this study seeks to provide a thorough exploration of key elements, from the legislative evolution to the practical implementation, rights, obligations, and the broader regulatory context.

As the world adapts to the evolving nature of work, understanding the legislative foundations becomes imperative for

fostering a harmonious and mutually beneficial relationship between employers and employees. This document serves as a beacon, illuminating the path through the legal intricacies, bringing clarity to questions surrounding the implementation of remote work, employer-employee agreements, provision of office equipment, reimbursement of expenses, health and safety responsibilities, and the broader implications of the legislative changes introduced in 2021.

In navigating this exploration, the document not only sheds light on the current situation but also delves into the historical evolution of legislation, providing a holistic perspective on the trajectory of remote work in Austria. Moreover, the study unveils the unique challenges and opportunities brought forth by the legislative amendments, offering insights into the delicate balance between flexibility and regulatory adherence.

As we embark on this journey through the legal landscape of remote work in Austria, it is our endeavor to equip employers, employees, and stakeholders with a comprehensive understanding of their rights, obligations, and the overarching framework that governs their professional engagements. This document acts as a cornerstone in the ongoing dialogue surrounding the future of work, advocating for informed decision-making, legal compliance, and the creation of work environments that reflect the evolving needs of a dynamic workforce in Austria.

2.3.1 Evolution of legislation on remote work in Austria

The legislative journey shaping the landscape of remote work in Austria is deeply rooted in historical contexts. Unlike many European nations, Austria's approach to remote work has been a product of nuanced evolution rather than a sudden paradigm shift. Historical perspectives shed light on the societal and economic factors that propelled the need for legal frameworks governing remote work.

The year 2021 marks a pivotal moment in the legislative history of remote work in Austria. Faced with the exigencies of the COVID-19 pandemic, the Austrian Parliament responded by enacting a comprehensive "home office legislative package" that came into effect on April 1, 2021. This legislative overhaul aimed not only at addressing the immediate challenges posed by the pandemic but also at providing a long-term, flexible framework for remote work.

The legislative changes introduced in 2021 fundamentally altered the dynamics of remote work in Austria. Key features include the voluntary nature of home office arrangements, requiring a written agreement between employers and employees.

The legislative amendments also ushered in greater flexibility and tax benefits for those engaged in remote work. Notable provisions include non-taxable flat rate allowances, deductions for ergonomic office furniture, and obligations for employers to provide digital work equipment. Understanding the nuances of these provisions is crucial for both employers and employees seeking to navigate the intricacies

of remote work arrangements.

The legislative changes require meticulous record-keeping of home office days, impacting both wage accounts and pay slips. While working from home, employees remain entitled to a safe and healthy working environment. This section will explore the employer's responsibilities in ensuring proper health and safety conditions, detailing the regulations in place and the distinction between workplace-related and home office occupational health and safety regulations.

As remote work transcends geographic boundaries, this chapter will touch upon the global implications of Austria's remote work legislation. Considerations such as the risk of establishing a permanent establishment, cross-border tax implications, and potential obligations for employers allowing remote work in other countries will be dissected.

2.3.2 Analysis of Austria's remote work legislation

The legal landscape of remote work in Austria underwent a significant transformation with the enactment of the remote working law on April 1, 2021. Central to this legislation is a meticulous definition of remote work, encompassing activities carried out from an employee's home, a secondary residence, or the residence of their partner or close relative. A cornerstone of Austria's remote work legislation is the requirement for formal agreements between employers and employees. A written contract is necessary, highlighting the voluntary nature of remote work. Employees do not possess an inherent right to work remotely, and employers cannot enforce remote work without mutual consent.

The legislation introduces a dynamic dimension by allowing employers to engage in negotiations with works councils regarding remote work arrangements. Despite this, individual agreements with employees remain paramount. Works council negotiations and individual consent form a delicate balance in establishing remote work policies.

The obligation placed upon employers to furnish remote workers with the necessary equipment is a pivotal aspect of the legislation.

Remote workers, despite their location, remain subject to Austria's existing working time laws. Implications for remote workers, including adherence to normal working hours, rest periods, and mutual agreement between employers and remote workers to adjust work schedules, will be elaborated. The importance of accurate working time record-keeping will be emphasized.

Simultaneously, the legislation extends protections to remote workers, ensuring coverage under employers' accident insurance. A nuanced exploration of accident insurance, encompassing both home-based and external accidents, will provide clarity on the extent of coverage.

To safeguard the well-being of remote workers, the legislation imposes standards on the ergonomic quality of office equipment provided by employers. This regulatory oversight aims to strike a balance between ensuring compliance and respecting the privacy of remote workers.

2.3.3 Conclusion and implications

In this final chapter, we delve into the conclusions drawn from the analysis of Austria's remote work legislation. Additionally, we explore the implications this legislation carries for both employers and employees, shedding light on the broader impact within the Austrian work landscape.

Key findings

The examination of Austria's remote work legislation has revealed several key findings that encapsulate the essence of this regulatory framework. These findings serve as crucial takeaways for anyone navigating the landscape of remote work in Austria.

- **Voluntary Nature of Remote Work:** the legislation underscores the voluntary nature of remote work, emphasizing the necessity for mutual agreement between employers and employees. This preserves the autonomy of both parties in deciding whether remote work aligns with their preferences and operational needs.
- **Written Agreements and Termination Procedures:** remote work arrangements must be documented in writing, and either party can terminate the agreement with one a month's notice for significant reasons. This formalized approach ensures clarity and transparency in the remote work relationship.
- **Equipment Provision and Compensation:** employers bear the responsibility of providing necessary work equipment for remote employees, including an internet connection. Alternatively, compensatory lump-sum payments can be agreed upon. Tax regulations introduced in 2021 contribute to the clarity of compensation rules, covering various incurred costs.
- **Adherence to Working Time Laws:** remote workers are subject to existing working time laws, ensuring that established norms regarding rest periods and other time-related regulations remain applicable in a remote work setting. This maintains consistency and fairness in the treatment of employees.
- **Liability and Insurance:** remote workers are hold liable for any damage to employer-provided work equipment. Notably, the legislation reaffirms the extension of employers' accident insurance to cover remote workers, encompassing certain accidents that may occur outside the worker's home.
- **Ergonomic Standards and Inspection Permissions:** the legislation emphasizes the importance of ergonomic standards for office equipment provided by employers. Furthermore, it safeguards the privacy of remote workers by stipulating that inspections by the government labor inspectorate require explicit consent from the remote worker.

Implications for Employers.

For employers, navigating the intricacies of Austria's remote work legislation involves strategic considerations and adherence to the established guidelines. Key implications include:

- **Negotiation Dynamics:** Employers have the opportunity to negotiate remote work agreements, taking into account factors such as equipment provision, compensation, and adherence to legal requirements.
- **Legal Compliance:** Ensuring compliance with the legislation's provisions, especially regarding equipment standards and insurance coverage, is paramount. This involves a proactive approach to risk mitigation and legal adherence.
- **Communication and Transparency:** Effective communication with employees regarding the terms of remote work agreements, including potential adjustments to work schedules, contributes to a transparent and collaborative work environment.

Implications for Employees

For employees, understanding their rights and responsibilities under Austria's remote work legislation is crucial. Implications include:

- **Agreement Flexibility:** Employees have a say in negotiating the terms of remote work agreements, ensuring that the arrangement aligns with their preferences and maintains a healthy work-life balance.
- **Equipment and Compensation:** Clarity on the provision of necessary equipment and compensation mechanisms empowers employees to make informed decisions regarding their remote work setup.
- **Working Time Management:** Adhering to established working time laws is essential for employees, and any adjustments to work schedules should be agreed upon collaboratively with the employers.

Future Considerations

As we conclude our exploration of Austria's remote work legislation, it is essential to consider potential future developments and emerging trends in this dynamic space. The following factors merit attention:

- **Evolution of Remote Work Culture:** Ongoing changes in work dynamics and cultural shifts toward remote work may influence the evolution of legislation. Adapting to these changes will be crucial for both legislators and stakeholders.
- **Technological Advancements:** The continuous evolution of digital technologies may prompt adjustments to legislation, particularly in areas related to digital work equipment and data security.
- **Global and Economic Influences:** External factors, such as global economic trends and international labor standards, could impact the trajectory of remote work legislation.

In conclusion, Austria's remote work legislation establishes a framework that balances the interests of employers and employees while adapting to the evolving nature of work. Navigating this landscape requires a nuanced understanding of the legal landscape, proactive collaboration, and a commitment to fostering a productive and equitable remote work environment.

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