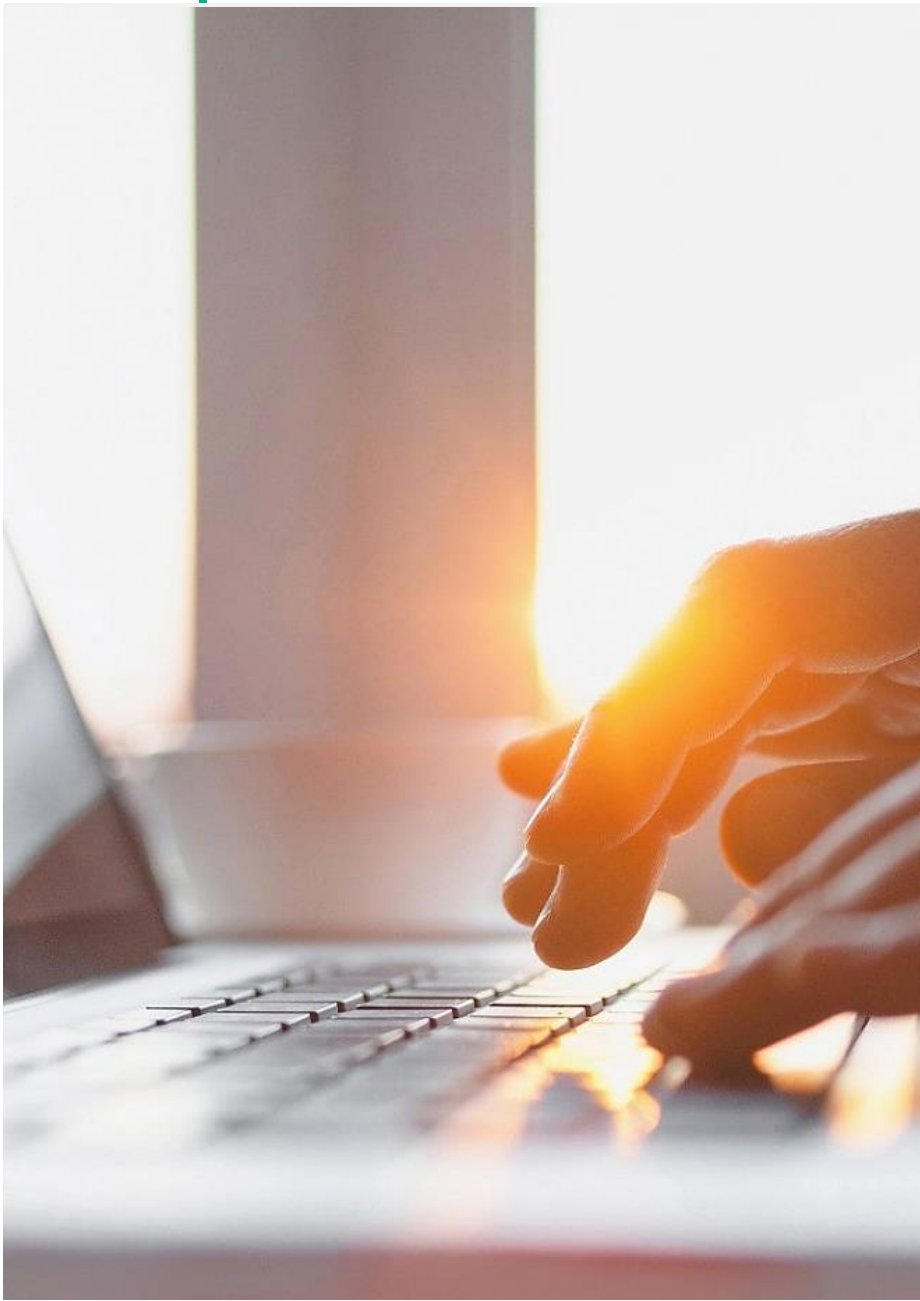


# LABOUR

## LEGAL REGIME OF TELEWORK

VdA EXPERTISE



February 2022

## **Presidential Decree NO. 52/22, dated 17th February 2022, creates the legal regime of telework, entering into force on 20th March 2022.**

In this flash you will learn about the main innovations of this new regime with impact on labour relations.

### **Scope**

- The regime applies to all entities covered by the General Labour Law and ancillary diplomas, namely private, public or mixed companies, cooperatives, social and international organizations and diplomatic and consular representations.

### **Notion**

- Telework corresponds to the provision of work under a subordinate employment relationship, usually outside the company and by means of information and communication technologies.
- Telework, safeguarding all the security and privacy issues, can be carried out under one of the following modalities: (i) home telework, (ii) telework in satellite office, (iii) telework in community work centre, and (iv) nomad telework.

### **Implementation**

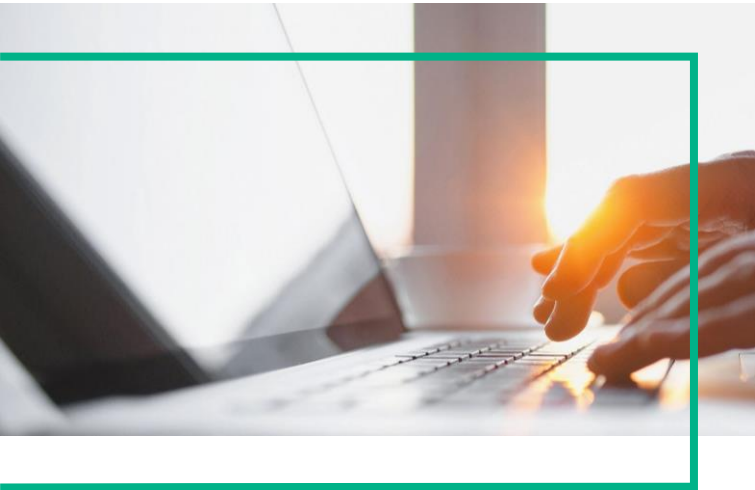
- Telework may be adopted at the initiative of either of the parties, with (i) employees already working for the company, through a written agreement, or with (ii) new employees hired to work specifically under this regime, through a telework contract.

### **Mandatory Teleworking**

- Provided that it is compatible with the activity and the employer has the necessary means, the following employees are entitled to work under a telework regime: (i) pregnant women with a health situation that justifies it, (ii) employees who have the individual or shared care of a child under 5 years old or a dependent with special needs with a certified disability or incapacity equal or superior to 60%, and (iii) employees whose health condition is incompatible with on-site work, provided that it is proven by a document issued by a medical doctor.
- In the foregoing cases, as well as in case of a Constitutional State of Necessity, the employer may not oppose the request of the employee.

### **Work Instruments and Expenses**

- The employer is responsible for providing the teleworker with the equipment and systems necessary for carrying out the work and for guaranteeing the connection between both. If it is not possible for the employer to make those means available and the employee so consents, work may be carried out through the teleworker's personal means, though employer remains responsible for programming and adapting them to the concrete needs of the work.
- The employer must also ensure the full reimbursement of all additional expenses that the employee demonstrably incurs as a direct consequence of the acquisition or use of the work instruments.



### **Equal Treatment**

- Teleworkers have the same rights and duties as other employees, including protection against occupational accidents and illnesses and guaranteed benefits.

### **Employee Privacy**

- During working hours, teleworkers should be reachable by clients, colleagues and hierarchical superiors who wish to contact them.
- The employer must respect the teleworker's privacy, working hours and personal and family rest time, as well as guarantee the right of the employee to disconnect.
- Whenever telework is carried out at the domicile of the employee, the visit to the workplace requires a 24 hours' prior notice and can only have

the purpose of controlling the work activity and the work instruments. This visit may only take place with the presence of the employee or a person appointed by the latter.

- Surveillance systems may only be used by the employer for the sole purpose of protecting people and property within the limits of what is strictly necessary to safeguard the privacy and informative self-determination of the employee.

### **Termination**

- Upon termination of the agreement, the teleworker who was previously employed by the company is entitled to resume on-site work under the terms previously in force.

# Contacts



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