

The impact of teleworking and digital work on workers and society

Annex IV - Case study on Germany





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Abstract

The study analyses recent trends in teleworking, its impacts on workers, employers, and society, and the challenges for policymaking. It provides an overview of the main legislative and policy measures adopted at EU and national level, in order to identify possible policy actions at EU level. The study is based on an extensive literature review; a web survey; interviews with representatives of European and national stakeholders; and five case studies of EU countries: Finland, Germany, Ireland, Italy and Romania.

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AUTHOR

Kerstin JUNGE, Tavistock Institute of Human Relations

ADMINISTRATOR RESPONSIBLE

Aoife KENNEDY

EDITORIAL ASSISTANT

Roberto BIANCHINI

LINGUISTIC VERSIONS

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ABOUT THE EDITOR

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To contact the Policy Department or to subscribe for email alert updates, please write to: Policy Department for Economic, Scientific and Quality of Life Policies European Parliament

L-2929 - Luxembourg

Email: Poldep-Economy-Science@ep.europa.eu

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MAIN STUDY

http://www.europarl.europa.eu/RegData/etudes/STUD/2021/662904/IPOL_STU(2021)662904_EN.pdf.

LIST OF ABBREVIATIONS

BAUA Bundesanstaltfür Arbeitsschutzund Arbeitsmedizin, BAuA

(Federal Agency for Health and Safety at Work and Occupational Medicine)

BMAS Bundesministerium für Arbeit und Soziales

(Federal Ministry of Labour and Social Affairs)

DGB Deutscher Gewerkschaftsbund

(German Trade Union Federation)

DGFP Deutsche Gesellschaft für Personalführung e.V

(German Association for Human Resource Management).

DSTATIS Statistisches Bundesamt

(Federal Office of Statistics)

EP European Parliament

EU European Union

European Foundation for the Improvement of Living and Working

Conditions

GDPR General Data Protection Regulation

HR Human resources

IAB Institut für Arbeitsmarkt- und Berufsforschung

(Institute for the Labour Market)

IT Information Technology

LPP Linked Personnel Panel

SARS-CoV-2 Severe Acute Respiratory Syndrome Coronavirus-2

1. MAIN CURRENT AND FUTURE TRENDS IN TELEWORK IN THE COUNTRY COMPARED TO THE EU AVERAGE

a. Introduction

This section summarises key current and anticipated trends in teleworking in Germany. It draws on recent surveys by Eurostat and national organisations, in particular the German statistical office (DSTATIS) and data from a representative survey of businesses and employees.

Germany makes a legal distinction between teleworking and mobile working (Wolf and Kring, 2021). According to the *Arbeitsstaettenverordnung* (Workplaces Ordinance), teleworking is a formal arrangement where the employer installs display screen equipment permanently in the worker's home and both parties agree weekly working hours and duration of the installation. Mobile working, by contrast, allows the employee to choose their place of work (e.g. from a client's office, while travelling, working from home) and to use mobile devices (mobile phone, tablet or a laptop) (CMS, 2021). Mobile working is less tightly regulated than teleworking: the Workplaces Ordinance does not apply, but, rather, the less specific regulations of the *Arbeitsschutzgesetz* (Act on the Implementation of Measures of Occupational Safety and Health to Encourage Improvements in the Safety and Health Protection of Workers at Work) (CMS, 2021). Much of the literature, data and debate use these terms interchangeably, however.

b. Main teleworking trends in Germany – before the COVID-19 crisis

Before the pandemic, Germany was just below the EU average for teleworking. According to Eurostat, in 2019, Germany was just below the EU average, with 5.7% of employed persons 'usually working from home' (Eurostat, 2020). The Netherlands and Finland had the highest share of workers 'usually working from home', at 14.1%.

Data from the 2019 employee survey (DSTATIS, 2021) provide more detail on this figure. DSTATIS measures the share of workers carrying out their main job regularly (daily or more than half of their working time) or sometimes (less than half of their working time) at home. This encompasses both teleworking and 'home office', as well as other work carried out at home (e.g. cosmetics, care professions). According to this indicator, 12.9% of all employed persons worked from home in 2019. Among employees, 3.3% 'usually worked from home', 6.3% 'sometimes' and 90.4% 'never'. The highest share of workers working from home was found among the self-employed running a business without employees (33.5% usually working from home) and family members helping out (*mithelfende Familienangehoerige*) (36.1% usually working from home).

These data reveal two interesting socio-occupational trends in homeworking:

- When it comes to working at home, there is little difference between genders and by age. Men occasionally work from home more than women (8.5% and 5.5%, respectively).
- Home working is more prevalent among certain jobs and professions. Academics have the highest share of people working from home (33.5%), and gender is not a factor here. Managers (30.3%) and people working in agriculture and fisheries (27%) are the second highest group, with gender more of a factor. According to DSTATIS (2021), these two latter categories are professions with an above average share of men and self-employed. At the opposite end of the scale, only 1.5% of machine operators or 'auxiliary workers' (*Hilfsarbeiter*) work from home.

Two key messages on homeworking trends emerged from the 2017 results of a panel survey of 16,000 companies (*Institut fuer Arbeitsmarkt- und Berufsforschung (IAB)-Betriebspanel*) (Grunau et al., 2019). Firstly, this survey shows a gradual upward trend in the share of employees working from home¹: 19% in 2013 and 22% in 2017. Secondly, most people working from home do so for only parts of the working day: 63% of those working from home do so for a few hours rather than for whole days. According to one of the experts interviewed, those employers that offer home office/teleworking to employees do so for economic reasons (e.g. cost savings from reduced office space and/or desk-sharing arrangements) and because it makes them more attractive as an employer. More businesses could offer home working but may not do so because of old-fashioned management ideas about office presence and employee monitoring or because of technical challenges (e.g. providing laptops or employees engaged in work that is mostly paper-based rather than digital). They also argued that introducing teleworking/working at home is somewhat easier in sectors or occupations that require a high degree of employee autonomy.

c. Working at home – trends during the COVID-19 pandemic and thereafter: 'The trend is irreversible'

The pandemic saw an increase in people working from home, in particular during lockdown. According to the 'Living, working and COVID-19 survey' (Eurofound, 2021), in April 2020, 36.6% of German respondents had 'started to work from home as a result of the situation'. A survey of 500 German businesses by the *Fraunhofer Institut fuer Arbeitswirtschaft und Organisation IAO* in May 2020 reported that 70% of respondents stated that office workers either completely or mostly worked at home during the COVID-19 crisis, with 21% opting for a 50/50 split between home and office working (Hofmann et al., 2020). One of the experts interviewed noted that the rapid expansion of home working during the COVID-19 crisis was facilitated by companies quickly investing in IT equipment (e.g. laptops).

This expansion in the rate of workers carrying out their jobs outside their employers' premises during the COVID-19 crisis raises the question of whether working from home will increase after the pandemic. One expert interviewed was certain that 'this trend is irreversible', noting that working from home has been proven to work and management concerns have not materialised. In addition, the expert noted, 'infrastructure and experience are now there', while technology is constantly developing, supporting the home working trend further. A survey by the Federal Agency for Health and Safety at Work and Occupational medicine (*Bundesanstalt für Arbeitsschutz und Arbeitsmedizin, BAuA*) in October 2020 asked a sample of 1,700 businesses about their plans for home working after the pandemic (BAUA, 2020). Survey results pointed to the possibility of a significant - although perhaps not radical – shift towards more working from home:

- 18% of respondents planned to expand their working from home, particularly large businesses (>250 employees);
- 67% of businesses planned to go back to the level of working from home that was in place before the pandemic;
- 9% of respondents planned to reduce teleworking; and
- 5% remained unsure of their next steps in respect of home working.

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This survey defines working from home as carrying out a professional activity in the home of a worker. Data apply to companies with at least 50 employees.

2. MAIN POSITIVE/NEGATIVE IMPACTS OF THESE FORMS OF WORK ON WORKERS AND SOCIETY

The third round (2015) of the IAB Linked Personnel Panel (LPP) survey asked employees about their experiences of working at home ('home office'). Employees reported two main benefits of working from home: an improved ability to carry out tasks (56%) and time savings due to lack of commuting (55%) (Grunau et al., 2019). However, the lack of suitable equipment can lead to productivity losses: 8% of respondents to a 2020 survey of 500 employers reported that their employees claimed reduced productivity due to screens that are too small, for example (Hofmann et al., 2020).

In addition, 38% of employees reported working longer hours from home, pointing to the clearest disadvantage of teleworking - the risk of failing to switch off and recover (Hofmannet al., 2020).

Finally, according to the Linked Personnel Panel survey, 52% of employees rated their improved ability to combine work and family life when working from home. In the 2020 assessment of the Federal Ministry for Work and Social Affairs (*Bundesministerium fuer Arbeit und Soziales*, BMAS, 2020), working at home allows parents to work more flexibly around childcare and educational needs, improving people's ability to combine their work and family life (BMAS, 2020). The same report summarises employee case studies that suggest that working from home can make it easier for mothers to return to work after maternity leave.

LLP survey responses from 2019 show that 48% of employees recognise that home working leads to more entanglement of work and private life, with 54% of respondents counting that against working at home (Grunau et al., 2019). Women appear to be disproportionately affected by the caring responsibilities that come with working at home. Referencing Lott's 2019 study of the use of flexible working by mothers and fathers, BMAS (2020) explained that mothers working at home spend an extra three hours per working week on childcare compared to mothers not working from home. This is not the case for fathers, however, meaning that 'there is a risk of an increased burden, in particular for mothers, of mixing work and private life [...]' (BMAS, 2020).

Three further challenges should also be noted. Firstly, teleworking is challenging for managers lacking the skills to manage staff remotely (Hofmann et al., 2020). One expert interviewed highlighted difficulties for managers in managing staff performance or recognising psychological and other health problems in their staff. Secondly, 35% of businesses responding to the 2020 Fraunhofer IAO survey believed that more needed to be done with works councils to create effective virtual working opportunities. According to the Fraunhofer report, this could affect meeting patterns and formats, as well as speed of decision-making (Hofmann et al., 2020). Thirdly, some policy and business experts expressed concern about the divisive effects of teleworking not being accessible to all employees (Tagesschau, 2021a). Indeed, 65% of Human Resources (HR) respondents to a 2020 survey by the German Association for Human Resource Management (*Deutsche Gesellschaft für Personalführung e.V.* (*DGFP*)) viewed unequal treatment of employees who can and cannot use mobile working as a challenge to the legal right to mobile working (DGFP, 2021). Such inequality may give rise to feelings of unfairness among employees (e.g. some still having to commute) that affect the working environment in teams and organisations.

Experts gave two useful examples of societal impacts. Firstly, the experience of effective video conferencing during the COVID-19 pandemic could lead to reduced business travel, bringing positive impacts for the environment, although at the expense of sectors of the economy relying on business travel. More teleworking also enables businesses to think differently about where they locate their offices, with less of a pull exerted by big cities and perhaps a wider pool of potential employees for businesses that locate in more remote areas.

3. MAIN LEGISLATION AND POLICY APPROACHES ADOPTED IN RECENT YEARS

Germany provides no permanent legal right to teleworking ('home office') (Otto and Müller, 2021), although, in 2021, the German Trade Union Confideration (*Deutscher Gewerkschaftsbund*, DGB) called for the legal right to work from home during the COVID-19 crisis (Tagesschau, 2021b).

a. The draft Mobile Work Act and its successor initiative

The draft Mobile Work Act (*Mobile-Arbeit-Gesetz*), introduced by the BMAS in October 2020 was subsequently blocked by the Chancellery (*Kanzleramt*). The Act provided for an entitlement for employees to mobile work (at least 24 days per year) which could only be refused by the employer for business or operational reasons. Working parents were to be able to take turns working from home one day a week.

According to the German public news agency, ARD (Tagesschau, 2020), the Act failed because of a disagreement between the two parties of the country's coalition government, the Social Democratic Party running the Federal Ministry of Labour (and proposing the act), and the Christian Democracts, running the Federal Ministry for the Economy. The latter prefer agreements between employers and employees to a legally binding appraoch, and feared a division of employees into those who can work from home and those who cannot (Tagesschau, 2020).

Employers do not believe that there is a case for legislation, as the pandemic has shown that they can react flexibly and a legal right risks undermining collective bargaining (Tagesschau, 2020). However, employees of small businesses that do not require works councils may struggle to have their wish to work from home heard. The trade unions believed that the Act did not go far enough: the German Trade Union Confederation (*Deutscher Gewerkschaftsbund*, DGB) regarded the legal right to 24 days working at home as insufficient (Tagesschau, 2020).

BMAS re-submitted the Mobile Work Act in November 2020. The new draft provides for an obligation for employers to discuss an employee's wish for mobile working, with the aim of coming to an agreement. The working time of mobile workers needs to be recorded in order to ensure that working time limits are not exceeded. The draft also aims to ensure that mobile workers have the same insurance cover as those working on employers' premises. The Mobile Work Act would still see social partners establishing their own rules for mobile working that meet the needs of their businesses, sectors and regions, thereby allowing for solutions tailored to the interests of all parties.

b. Other initiatives regulating working from home

Irrespective of the proposed legislative developments, employees can have a right to work at home (home office) through sectoral and company agreements negotiated by the social partners (Eurofound, 2020). Indeed, 12% of businesses responding to the 2020 BAUA survey had formal rules in place to govern working from home, whether through agreements on teleworking (formal work stations at home) or home offices (assuming sporadic and irregular work from home), or both (BAUA, 2020). Some experts noted that working from home is best regulated at company level, allowing tailored solutions.

The SARS-CoV-2- Arbeitsschutzverordnung (Occupational Health Regulation) entered into force on 27 January 2021. It requires office workers or those with equivalent jobs to be enabled to work at home in order to support a reduction of social contacts in work settings during the pandemic. This requirement has been extended until the day the pandemic ends, but not later than 30 June 2021. An amendment to the SARS-CoV-2-Arbeitsschutzverordnung enacted on 14 April 2021 requires employers to offer SARS-CoV-2 coronavirus tests at least once a week for employees not exclusively working at home. For

defined categories of workers, e.g. workers who provide personal services with direct physical contact with other persons, testing is required twice a week.

c. The right to disconnect and surveillance of employees

According to Eurofound (2020), Germany has the most advanced discussions on the right to disconnect, albeit lacking any legislative initiatives. It notes that Germany is the only country whose trade unions have specific proposals in this regard. The right to disconnect is already included in some company-level agreements (primarily those with >250 workers), such as that of Volkswagen (Eurofound, 2020). DGB recently called for the right to disconnect to be part of a set of 'clear rules' governing home working in order to prevent employees over-working (Tagesschau, 2021c).

Experts interviewed noted that employee surveillance, although much debated in Germany, is well covered by the General Data Protection Regulation (GDPR). The Federal Labour Court (Bundesarbeitsgericht) has ruled that continuous video surveillance of workers is not allowed. One of the experts interviewed for this case study pointed out that Germany is unique in that the works council (Betriebsrat) has a right to co-determine (Mitbestimmung) the rules on electronic monitoring of employee performance and behaviour, up to and including the exclusion of such monitoring.

d. Other regulatory questions

Germany's main regulatory gap is that health and safety legislation (particularly the Workplaces Ordinance) and insurance provision apply solely to teleworking and exclude more flexible working patterns of mobile working. In addition, aspects of employment law have yet to catch up with the digital age and the resulting changes to the world of work (e.g. health and safety aspects of digital working and ensuingmental health issues). This includes mobile working, which an interviewed expert believes could be usefully addressed at national level. An issue for employers is the recording of working time for mobile working, which is included in the revised 2020 Mobile Work Act. A recent survey of HR managers by DGFP (2021) found that 37% of respondents were concerned that the requirement to record time in the revised Mobile Work Act would counteract current trust-based working, while 16% were concerned that recording time would countermand current arrangements.

e. Examples of good practice

The BMAS (2020) report on mobile working and teleworking contains eight examples of good practice, one of which is summarised in Annex 1.

4. CONCLUSIONS AND POLICY INDICATIONS

Before the COVID-19 pandemic, Germany was just below the EU average for share of employees usually working from home. Home working tends to be more common in certain jobs (e.g. academics and managers) and much less prevalent in those that require employees' presence on employer premises (e.g. machine operators). COVID-19 brought an unprecedented level of home working (in particular during periods of lockdown), requiring a certain amount of IT investment. While the experience of working at home during this time was not unambiguously positive for all employees, the experience nevertheless debunked several management concerns about productivity. Taken together with a trend of people increasingly expecting some flexibility regarding where they work, working from home will likely continue.

There are positive and negative impacts to home working for both employees and society. Improved productivity can, for example, come as a result of working longer hours. The ability to combine work and family can be helpful but risks blurring boundaries, with women carrying more of the burden. Patterns of work might change – reduced business travel will benefit the environment, but at the expense of businesses in the travel sector.

Germany provides no legal right to work at home, with some opinions suggesting that company-level agreements are better suited to create appropriate rules. It seems, however, that some modernising of national health and safety regulations would be necessary in order to ensure that more flexible forms of work are covered (beyond clearly defined teleworking) and that the specific requirements of mobile working are considered. Clarity about time recording would remove some employers' uncertainties about this way of working.

5. ANNEXES

Annex I – Good practice example

This example is partly reproduced and translated from BMAS, *Verbreitung und Auswirkungen von mobiler Arbeit und Homeoffice*, 2020, pp. 83-85.

Name/title of the measure Period of implementation [Specify when the project/strategy/experience started, if it is still ongoing or finished and if concluded, indicate when] Body responsible for implementation	Mobile working agreement in a textile manufacturing company (T') Company agreement on mobile work since 2017, updated in mid-2020 (ongoing). Textile manufacturing company (T')
Type of intervention	Company agreement on mobile working.
Territorial coverage (national, regional, local)	Main location of the business, with 300 employees.
Financial allocations	No information available.
Main goals and reasons for introduction [Specify the objects of the project/strategy/experience and the results it is supposed to achieve]	T. has offered employees the opportunity for mobile working for several years. A company agreement on mobile work has been in force since the end of 2017 and was updated in the middle of 2020. This agreement was an initiative of the newly formed body for employee representation, which wanted a framework for mobile working in the company.
Main target groups	The current company agreement grants all employees the option of mobile working. The conditions are that the job does not require their presence at employers' premises and the availability of adequate work equipment (reliable internet connection, etc.). At the time of the case study interviews, around 140 employees were regularly working from home.
Main partners/stakeholders involved (promoter and partners of the project/policy; typology and roles of actors involved)	Employee and employer representatives.
Main actions / measures implemented	Mobile working can be used all day or for part of the day and must be discussed with the supervisor or the team - there is no need for advance notice, but these arrangements are made informally and at short notice. (). (O) perational issues have priority, thus employees were not granted the right to a fixed home office day. In practice, employees often regularly work from home on Mondays or Fridays. However, if operational issues require their presence on one of those days, the company expects them to be there. The availability of workers working at home can be very important. The team, employee and manager jointly agree how this is ensured in practice. Transparency is achieved by

Name/title of the measure Mobile working agreement in a textile manufacturing company Company agreement on mobile work since 2017, updated in **Period of implementation** [Specify when the project/strategy/experience started, if it mid-2020 (ongoing). is still ongoing or finished and if concluded, indicate when] Body responsible for implementation Textile manufacturing company ('T') employees documenting their availability - 0r, if necessary, their absence - on an online calendar accessible to all team members. and telephones switched on. The company agreement stipulates that mobile employees only have to be available during agreed times and that there is no further obligation to be available. Main results/achievements to date and HR management is very satisfied with the way in which mobile working is organised at T. As a company in a rural area (with the expected longer term expected associated structural disadvantages), T. strives for an attractive impacts according to available monitoring/evaluations employer image and hopes that the offer of mobile/flexible working will increase the loyalty of skilled workers, future [Both quantitative and qualitative – specify viability and greater employee satisfaction. HR management results and outputs] found that the opportunity for mobile work is now expected by vounger applicants and no longer represents a particular competitive advantage. The company agreement leaves the specific design of mobile working to the teams and their managers. The regulations in some teams are therefore looser than in others, creating a degree of envy and conflict. When employees approach HR management with complaints, they are first asked whether the manager has been informed. If necessary, advice is given to the manager to resolve the conflict, and this cycle continues until a solution is found that is acceptable to both sides. However, the HR department does not intervene if the manager gives factual (i.e. internal team or activity-related) reasons. HR management cites strong communication skills, empathy and clear rules (of availability) as factors of success. The ability of managers to speak to employees if freedoms or agreements are being impinged is important. T. offers its employees seeking mobile working the option to participate in specific training that conveys the message that working flexibly is legitimate. Managers are also trained to conduct discussions and in conflict management (...). At T., mobile work is almost exclusively taken up by administrative staff. According to HR management, mobile working is, in principle, possible for particular activities in production and logistics, in particular in management, but this is

only used by these groups of employees in exceptional cases. HR management believes that this is down to workflow, where problems are often solved more quickly if the manager can take a look rather than if it was explained over the phone. [...]. Mobile working is not evenly distributed in the administration area either: it is widespread in design, control, personnel and corporate development, and marketing, while the sales and finance departments make little use of the option. HR

Name/title of the measure Period of implementation [Specify when the project/strategy/experience started, if it is still ongoing or finished and if concluded, indicate when] Body responsible for implementation	Mobile working agreement in a textile manufacturing company (T) Company agreement on mobile work since 2017, updated in mid-2020 (ongoing). Textile manufacturing company (T)
	management believes that team cultures determine the use of home office. The possibility of mobile working is used by very different groups of employees, especially commuters, who save time and money and protect the environment. In contrast to other companies, HR management cannot determine any increased use by parents. On the contrary, parents prefer to work on the employer's premises for greater peace. Exceptions are sick days or lack of childcare. In the view of HR management, parents are grateful for the option of mobile working but is not their preferred working model.

Source: BMAS, 2020, *Verbreitung und Auswirkungen von mobiler Arbeit und Homeoffice*, pp. 83-85. Available at: https://www.bundesregierung.de/breq-de/suche/verbreitung-und-auswirkungen-von-mobiler-arbeit-und-homeoffice-1837156.

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Annex III - Interviewees

Input Consulting.

Deutsche Gesellschaft für Personalführung e.V. (DGFP).

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