

New Ways of Working

01. Has the government introduced any laws and/or issued guidelines around remote-working arrangements? If so, what categories of worker do the laws and/or guidelines apply to - do they extend to “gig” workers and other independent contractors?

France

Author: *Béatrice Pola, Alexandra Stocki, Rachida Mahmoudi*
at Proskauer Rose

The first French law on teleworking was adopted on 22 March 2012. It was subsequently modified by an ordinance dated 22 September 2017. Today, three articles of the labour code cover the implementation and the functioning of teleworking (articles L. 1222-9 to L. 1222-11). In addition, two national collective agreements were concluded between employers' representatives and trade unions in 2005^[1] and 2020.^[2]

The definitions of teleworking given by article L. 1222-9 and by the agreement of 19 July 2005 provide that the rules on teleworking only apply to employees with an employment contract. These rules do not apply to self-employed workers.

[1] National collective agreement on Teleworking – July 19, 2005

[2] National collective agreement for a successful implementation of teleworking – November 26, 2020

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02. Outline the key data protection risks associated with remote working in your jurisdiction.

France

Author: *Béatrice Pola, Alexandra Stocki, Rachida Mahmoudi*
at Proskauer Rose

Employers must ensure the protection of their company's data but also of employees' data.

According to article L. 1222-10 of the French labour code, the employer must inform the teleworking employee of the company's rules regarding data protection and any restrictions on the use of computer equipment or tools. Once informed, the employee must respect these rules.

The collective national agreement of 26 November 2020, provides more details in article 3.1.4. It is the employer's responsibility to take necessary measures to protect the personal data of a teleworking employee and the data of anyone else the employee processes during their activity, in compliance with the

GDPR of 27 April 2016 and the rulings of the National Commission for Technology and Civil Liberties (the CNIL).

The CNIL said in its 12 November 2020 Q&A on teleworking that employers are responsible for the security of their company's personal data, including when they are stored on terminals over which they do not have physical or legal control (eg, employee's personal computer) but whose use they have authorised to access the company's IT resources.

The National Agreement of 26 November 2020 recommends three practices:

- the establishment of minimum instructions to be respected in teleworking, and the communication of this document to all employees;
- providing employees with a list of communication and collaborative work tools appropriate for teleworking, which guarantee the confidentiality of discussions and shared data; and
- the possibility of setting up protocols that guarantee confidentiality and authentication of the recipient server for all communications.

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10. Are there some workplaces or specific industries or sectors in which the government has required that employers make access to the workplace conditional on individuals having received a Covid-19 vaccination?

France

Author: *Béatrice Pola, Alexandra Stocki, Rachida Mahmoudi*
at Proskauer Rose

Please see above (questions 8 and 9) regarding the workplaces and specific industries concerned by making the access to the workplace conditional on individuals having received a Covid-19 vaccination.

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Contributors

France

Béatrice Pola
Alexandra Stocki
Rachida Mahmoudi
Proskauer Rose