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Sustainability Growth Innovation

# Position Paper

## SGI Europe response to the second-stage consultation on telework and a right to disconnect

Adopted on 3 October 2025

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## Context and lessons from practice

SGI Europe takes note of the launch of the Commission's second-stage consultation on telework and a right to disconnect.

In our first-stage response, SGI Europe already highlighted a set of guiding principles. Any EU initiative must be proportionate, respect subsidiarity, and remain workable in the diversity of national contexts, sectors and occupations. The 2002 Framework Agreement on Telework and the 2020 Framework Agreement on Digitalisation continue to provide the appropriate reference points. Telework should remain regular, voluntary and reversible, with employers retaining the prerogative to decide which activities are teleworkable.

Equal treatment of teleworkers must be ensured without creating a parallel legal regime, and equipment and costs should remain regulated at national or company level. On OSH, employer responsibility should be limited to what is under their control, with privacy in the home fully respected. On disconnection, SGI Europe stated clearly that this can only mean a right not to respond outside working time, not a prohibition to contact, while safeguarding on-call and standby duties. Finally, implementation should rest with social partners at national level, who can adapt or differ through collective agreements while maintaining the overall level of protection.
Since the pandemic, many workers and employers have returned to a mix of on-site and remote arrangements. The Commission rightly notes this, but still builds much of its case on pre-pandemic data or surveys carried out in only 4 Member States. This evidence does not capture today's steady state and risks overstating the problems. SGI Europe insists that EU action must be anchored in up-to-date and representative data, not in outdated snapshots of exceptional circumstances, in line with the Commission's own Better Regulation agenda and its commitment to base initiatives on robust evidence.

It should also be recognised that the pandemic period temporarily magnified perceptions of blurred boundaries between work and private life. Today's hybrid models are more balanced, and the scale of the problem is less acute. A rigid EU prohibition would therefore be unworkable in many cases and could undermine the very services citizens rely on.

Telework can have many positive affects for workers creating a better work-life balance, increased flexibility and can lead to improved well-being and health. It is therefore important to make sure that the employers are not met with further administrative or economic burdens resulting in the lack of incentive for employer to offer telework on a regular basis

## Telework – definition, scope and voluntariness

The Commission recalls the 2002 definition of telework but, for the purpose of this consultation, adopts a broader concept that covers any ICT-enabled work performed outside the employer's premises, without restrictions on regularity. It notes variability across Member States and suggests that EU action could provide more clarity.

SGI Europe cannot under any circumstances accept an extension of the definition of telework from the 2002 Framework agreement. The 2002 definition of regular telework has been implemented across Europe and has proven effective. Extending EU rules to occasional, ad-hoc or unpredictable forms of remote work would blur boundaries with ordinary flexibility and impose obligations employers cannot reasonably fulfil.

Telework must remain mutual, voluntary and reversible. The employer must retain the right to decide how and where work is organised and to determine the teleworkability of specific tasks. A "right to request" is acceptable only if it does not become a right to obtain telework. Procedural burdens that force employers to justify refusals in detail would undermine voluntariness and act as a disincentive.

The Commission justifies its broader definition by pointing to risks of "always-on" culture. Yet the evidence used is weak: the 2019 Labour Force Survey and limited Eurofound samples cannot be considered robust proof of systemic problems. Before widening the perimeter of EU action, SGI Europe call for the Commission to further invest in updated and EU-wide data.

For SGI Europe, any EU action must remain anchored in the 2002 definition, preserve voluntariness and reversibility, and avoid scope drift that is not backed by solid evidence.

## Employment conditions, equipment and costs

The consultation stresses the principle of equal treatment of teleworkers and highlights divergent practices on equipment and cost-sharing.

SGI Europe reaffirms the principle of equal treatment: teleworkers should enjoy the same rights and obligations as comparable workers on-site, as set out in the 2002 Framework Agreement. Equal treatment, however, does not require a parallel legal regime for teleworkers. National and sectoral frameworks already secure non-discrimination while allowing justified differences for tasks that can only be carried out on-site.

The Commission also suggests that reinforced access to telework could support carers, women with family responsibilities or workers with disabilities. SGI employers recognise that telework can help reconciliation and participation, but warn that EU-level entitlements would in practice transform a right to request into a right to obtain, undermining employers' prerogatives to organise work.

Such rules would duplicate the existing EU equality acquis, bypass national frameworks and risk creating indirect discrimination, both by placing heavier on-site responsibilities on some colleagues and by unintentionally pushing vulnerable workers into permanent telework that isolates them and hinders their long-term integration.

The Commission warns that teleworkers risk being left behind in training and career development. SGI employers recognise this challenge but underline that existing EU equality and non-discrimination rules already prohibit unequal treatment.

What is needed is not new binding obligations, which would only create reporting burdens and rigid compliance procedures, but targeted support to make training more accessible in practice. EU instruments such as the Union of Skills, ESF+ and Erasmus+ funding, Digital Europe Programme and sectoral Pact for Skills partnerships should be used to strengthen digital and hybrid learning opportunities that teleworkers can access on equal terms.

National reforms supported through the European Semester and cohesion funds should also promote blended learning formats that avoid disadvantaging remote workers. Monitoring of training participation through existing EU indicators can provide visibility without creating new compliance layers. In this way, the Commission can

address the risk of exclusion while respecting subsidiarity and the role of national social partners in shaping career development pathways.
The question of equipment and costs is particularly sensitive. SGI Europe insists that this must remain at national, sectoral or enterprise level. The 2002 Agreement already provides that employers supply necessary equipment unless workers use their own. Beyond that, how utilities, internet or workspace are handled reflects national choices and collective bargaining. Attempting to impose EU-wide obligations would be disproportionate, would collide with existing systems, and could discourage employers from offering telework at all.

The Commission's own analytical document recognises that there is no single dominant model in Europe. Diversity here is not a problem; it is the expression of subsidiarity and industrial-relations autonomy. SGI Europe therefore advocates against an EU-level catalogues of costs and calls instead for recognition of the solutions already developed by social partners and governments across Member States.

## Occupational safety and health, privacy and data/monitoring

The Commission points to psychosocial risks such as stress, isolation and work intensification as a growing concern in telework. SGI Europe recognises their importance but insists that they must be addressed in the broader context of mental health at work, not through telework-specific regulation.

The EU peer review on Legislative and enforcement approaches to address psychosocial risks at work in the Member States (2024), shows that Member States already use very different approaches, and that a one-size-fits-all EU rule would not work. Building on the 2004 Framework Agreement on Stress and the 2007 Agreement on Harassment and Violence, SGI Europe is ready to work with trade unions on updated, social-partner-led solutions that respect national diversity.

Beyond psychosocial aspects, OSH obligations in telework must remain proportionate and practicable. Employers can and should provide information and training on safe practices, but liability must not extend to aspects of the private home outside their control. Risk assessments should rely on non-intrusive methods such as worker self-assessments and cooperation, with workers also fulfilling their duties under Article 13 of the Framework Directive.

If the Workplace Directive is revised, SGI Europe calls for legal certainty: employers cannot be held responsible for the general conditions of private homes, and risk assessments must remain based on cooperative methods. In the same vein, updating the Display Screen Equipment Directive must not impose a full office setup in every household. Obligations to provide external equipment should only apply where laptops or tablets are used intensively as the main work device, with flexibility for company policies or collective agreements to define solutions.

On monitoring and data protection, SGI Europe underlines that the GDPR already provides clear safeguards. Employers must act lawfully, transparently and proportionately, but new telework-specific EU rules are unnecessary.

The EU OSH acquis and GDPR already form a solid framework. What is needed is clarity on proportionate duties, recognition of shared responsibility, and practical support instruments, especially for SMEs and SGI providers operating under tight budgets. New telework-specific obligations would add complexity without real added value.

## Modalities of connecting and disconnecting

The Commission presents the case for EU minimum requirements on disconnection, citing risks of permanent availability. It notes that some Member States have legislated, while others rely on company or collective-level agreements.

SGI Europe acknowledges the importance of protecting boundaries between work and private life. But the Working Time Directive already secures daily and weekly rest. The real issue is enforcement, not duplication. For SGI Europe, a right to disconnect means that workers must not suffer negative consequences for choosing not to respond outside working time. This interpretation preserves flexibility for those who may voluntarily choose to remain available, while safeguarding on-call and standby duties, which are already separately regulated under the Working Time Directive.

Managing connection and disconnection is a shared responsibility. Both employers and workers must act responsibly to avoid cultivating an “always-on” culture. A rigid EU instrument risks upsetting this balance and could can be an obstacle to flexibility for both employee and employer.

The evidence cited by the Commission does not justify binding EU rules. Reliance on 2019 data and small-scale surveys does not reflect today’s hybrid normality.

A significant part of the highlighted surveys included were conducted during or immediately after the COVID-19 pandemic. These figures reflect exceptional circumstances, when working from home, due to risk of infections, became widespread to an extent without historical precedent and where the boundaries between work and private life were temporarily particularly challenged. Relying on this exceptional period of forced telework as the basis for EU-level action risks producing results that differ vastly from business-as-usual conditions, where telework is voluntary, hybrid and more balanced.

There is therefore a significant risk that the exceptional situation of the pandemic magnifies the real extent of the problem in normal times. With data collected primarily in 2020–2021, it is uncertain whether they actually describe a structural problem in the EU labour market, or simply a temporary effect of lockdowns and forced working from home[1].

As long as up-to-date and representative data are not available, the focus should be on ensuring effective enforcement of existing EU rules on working time, working environment and transparent conditions, rather than introducing new rules. Expanding regulation without a solid and up-to-date data base carries the risk of overregulation and unnecessary burdens, while better implementation and enforcement can create results within the existing framework.”

SGI Europe would support further gathering of data with the aim to better understand the common challenges, opportunities and trends in relation to the flexibility of working time and work location, with a focus on connecting and disconnecting.

The Commission also suggests that blurred boundaries in telework may require new obligations on time-recording or even technical “server-off” mechanisms. SGI employers cannot support this. The Working Time Directive already secures rest periods, and duplicating it for telework would only add confusion and

[1] Eurostat (LFS), Eurofound (EWCS and COVID e-survey), the Commission’s own *Exploratory study* from 2022, as well as EU-OSHA’s *OSH Pulse 2022*.

unnecessary administrative burdens. For many SGI providers, costly IT systems or rigid shutdowns are neither feasible nor compatible with the continuity of essential services, where on-call and standby are indispensable. Risks of an “always-on” culture are best managed through awareness and social dialogue, not through inflexible EU rules.

The 2020 Framework Agreement on Digitalisation already provides clear principles for managing connection and disconnection. The best way forward is to support national social partners in implementing these principles through collective agreements and company policies, not to impose a one-size-fits-all rule, which undermines the employer’s prerogative to organise work. Introducing a new EU-level prohibition would add unnecessary complexity on top of the existing Working Time Directive, which already provides clear and rigid rules on daily and weekly rest, as confirmed by Court jurisprudence. The focus should be on effective enforcement of these existing rules rather than duplicating them.

## Implementation via social dialogue

Implementation is decisive. Telework and disconnection rules will only work if they are owned by both sides of industry. Implementation must take place at the appropriate level, with solutions designed close to workplace realities, whether through social partners and company-level arrangements.

For this reason, SGI Europe insists that any EU initiative must explicitly allow Member States to entrust social partners with implementation. Collective agreements must have the possibility to adapt, complement or differ from EU provisions while maintaining the general level of protection. This is the only way to respect the diversity of labour markets and ensure legitimacy.

Rather than prescribing uniform rules, the Commission should promote guidance, exchange of practices and toolkits, and invest in strengthening the capacity of social partners to negotiate and implement tailored solutions.

## Proportionality, impacts and the need for better evidence

The Commission outlines different avenues for EU action, from binding legislation to non-legislative measures. It also acknowledges that evidence gaps remain.

SGI Europe stresses that EU action must be proportionate and grounded in solid evidence. The Commission relies heavily on outdated figures and incomplete surveys. This is not a sufficient basis for prescriptive EU obligations.

SGI Europe also stresses that disproportionate EU rules could seriously harm the competitiveness and viability of service providers of general interest. New compliance burdens would fall most heavily on organisations that operate under strict financial constraints, often in highly regulated environments, and with a duty to guarantee continuous access to essential services. Imposing rigid obligations in this context would not only risk discouraging the use of telework, but could also compromise the capacity of SGI employers to deliver high-quality, affordable services to citizens.

For now, the most constructive way forward is to focus on non-legislative measures: guidance, awareness-raising, financial support for SMEs and social partners, and reinforcement of the existing acquis. The Working Time Directive, OSH rules and GDPR already provide strong protections; the priority should be enforcement. The 2002 and 2020 agreements should remain the reference point for social partners.

If, despite these concerns, the Commission were to pursue a legislative path, SGI Europe would call for a narrow scope limited to regular telework, strict respect of subsidiarity, a full impact assessment and a review clause to test effects in practice.

In addition, new requirements could create administrative burdens, especially for small and medium-sized organisations, which risk being burdened with additional costs, documentation, policies and control mechanisms.

More regulation would also be in contrast to the Commission's own agenda on regulatory simplification and "Better Regulation", where the aim is to reduce unnecessary burdens and create a simpler framework for businesses and citizens. It is also important that the Commission continues to give priority to its broader agenda on competitiveness, security and defence, administrative simplification and effective implementation. Work on telework and the right to disconnect should be considered in this wider context, ensuring that attention is not diverted from these key objectives. Introducing another layer of binding rules in an area where both EU legal frameworks and national solutions already exist would therefore be contrary to this principle.

Experience also shows that when EU initiatives attempt to cover too many issues at once, they become unmanageable; the Commission should therefore ensure that any future proposal remains focused and avoids overloading the agenda with multiple topics. When it comes to cross-border telework, the Commission’s own analysis shows that employers who engage in cross-border telework often point to taxation and social-security rules as the main barriers they face.

SGI Europe notes that these issues fall outside the scope of this consultation and should be addressed through the appropriate EU coordination frameworks rather than through labour-law obligations. It is important that future EU work keeps these files clearly separated, so that solutions to cross-border challenges do not lead to disproportionate regulation of telework itself.

**SGI Europe is willing to discuss the possibilities of negotiations together with the other cross-sectoral social partners.**

## Conclusion

SGI Europe reiterates our commitment to engage constructively. The principles are clear. Telework should remain regular, voluntary and reversible, anchored in the 2002 and 2020 agreements. Equal treatment must be safeguarded without creating new regimes. Costs and equipment should be managed nationally. OSH duties must be feasible and respect privacy. Disconnection must be understood as a right not to respond, not a ban on contact.

A successful initiative will not be measured by the number of new rules it creates, but by whether it supports modern, flexible and safe telework, protects workers, and enables employers to continue delivering quality services in Europe.