

- **Statement of interpretation on Article 3§2 - Digital disconnect and electronic monitoring of workers**

The Covid-19 pandemic has changed the way many people work, and many workers now telework or work remotely. Lockdown and movement restrictions also expanded or intensified considerably the phenomenon of remote working, including outside of normal work hours. The Committee's Statement on Covid-19 notes that teleworking or remote working in the Covid-19 pandemic may be associated with specific health and safety risks, including unsuitable workplace ergonomics and psychosocial stress factors such as isolation, electronic surveillance and "hyperconnected" working methods (Statement on Covid-19 and social rights, March 2021). Teleworking or remote working may also lead to excessive working hours.

The Committee considers that, consistent with States Parties' obligations in terms of Article 3§2, in order to protect the physical and mental health of persons teleworking or working remotely and to ensure the right of every worker to a safe and healthy working environment, it is necessary to enable fully the right of workers to refuse to perform work outside their normal working hours (other than work considered to be overtime and fully recognised accordingly) or while on holiday or on other forms of leave (sometimes referred to as the "right to disconnect"). The Committee recalls that one of the primary aims of Article 2 of the Charter - which guarantees the right of all workers to just working conditions, including reasonable daily and weekly working hours (Article 2§1), annual holiday with pay (Article 2§3), and weekly rest periods (Article 2§5) - is to protect a worker's safety and health.

States Parties should ensure there is a legal right not to be penalised or discriminated against for refusing to undertake work outside normal working hours. States must also ensure that there is a legal right to protection from victimisation for complaining when an employer expressly or implicitly requires work to be carried out outside working hours. The expectation from the employers that workers will be available outside their working hours, if implemented in practice, is hazardous to the workers' health. States Parties must ensure that employers have a duty to put in place arrangements to limit or discourage unaccounted for out-of-hours work, especially for categories of workers who may feel pressed to overperform (e.g. those during probationary periods or for those on temporary or precarious contracts).

In some cases, arrangements may be necessary to ensure the digital disconnect in order to guarantee the enjoyment of rest periods. This may have a positive effect on workers' health, since it is likely to reduce burn-outs and overload.

Being connected outside normal working hours also increases the risk of electronic monitoring of workers during such periods, which is facilitated by technical devices and software. This can further blur the boundaries between work and private life.

The Committee recalls that it has already stated that under Article 1§2 of the Charter individuals must be protected from interference in their private or personal lives associated with or arising from their employment situation, in particular through modern electronic communication and data collection techniques. (Conclusions 2006, Statement of Interpretation on Article 1§2; Conclusions 2012, Statement of Interpretation on Article 1§2.)

The Committee notes that in addition to interfering with the right to privacy the electronic

monitoring of workers may have implications for the health of workers, including their physical and mental health. Therefore, the Committee considers that States Parties must take measures to limit and regulate the electronic monitoring of workers.