Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1233 (2000)[1]

Impact of new technologies on labour legislation

Parliamentary Assembly

1. New communication and information technologies (NCIT) are one of the driving forces behind economic progress in European countries and have a major impact on employment in terms of the creation of new products and services.

2. Insofar as NCIT affect all sectors of the economy and jobs, they have also transformed working life, by changing working organisation, working systems and methods, production processes, working conditions and labour relations.

3. The rules laid down in most laws and collective agreements governing working life are out of date, based as they are on the concept of full-time work performed in a single workplace during set working hours.

4. Firms' growing recourse to new communication technologies, combined with the development of e-commerce and teleworking, have resulted in a new approach to the way work is organised based on the concept of flexibility.

5. Teleworking, in particular, is work performed at a distance, sometimes in the home, and which consequently offers opportunities for conducting business outside the traditional workplace, thus improving access to employment for people living in rural or isolated areas. It also offers workers the possibility of modulating their working hours so that they are more flexible and better suited to their family and personal life.

6. At the same time, however, NCIT give rise to new constraints which it is important to assess insofar as they can sometimes lead to abuse or outright violation of human rights and the rights of workers. They include a blurring of the boundaries between work and private life, notably because of the possibility of increasing the amount of overtime and time spent on call, a potentially destabilising effect on family life, elastic working hours that it becomes difficult to quantify, the risk of a deterioration in the medical and healthcare monitoring of teleworkers, an increase in occupational diseases related to stress and pressure and the constant need for workers to update their skills, and teleworkers' isolation and inadequate corporate integration.

7. In addition, employers may be tempted to use NCIT to assess workers and monitor their behaviour rather than simply for the purposes for which they were originally intended. Such practices are a breach of workers' privacy and of their personality.

8. New communication technologies increase the opportunities available to employers for violating their workers' privacy, making use of full-scale social monitoring in firms by placing employees under electronic, audiovisual or computerised surveillance (for example, video surveillance, checking of e-mail or voice box content, monitoring of phone calls, holding of files on employees and data relating to their perceived career profile, personality, potential and state of health, assessment of the work actually done by employees, as well as their working hours, trips, and productivity, using surveillance methods such as electronic badges, PAX systems, analysis of telephone calls and log tracking, etc.).

9. As a result of these facts, it is necessary to reconsider the rules and regulations on employment and on working conditions as laid down by the social partners in national collective agreements and national worker protection laws.

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1. See Doc. 8751, report of the Social, Health and Family Affairs Committee, rapporteur: Mr Birraux. Text adopted by the Standing Committee, acting on behalf ofthe Assembly, on 9 November 2000.

10. The Assembly therefore urges the member states to take account of the impact of new technologies on working life and the nature of the changes they have wrought, to assess the effect they have on corporate life and the lives of workers, and to make sure that their development does not go hand in hand with a reduction in the protection to which they are entitled.

11. It recommends that member states make the necessary statutory amendments to ensure that new and existing laws and regulations guarantee a high level of protection for workers and workers' rights, as regards:

11.1. respect for workers' private lives and dignity:

a. by limiting the collection of personal data so that files compiled and kept by an employer are restricted to those which:

1. are strictly necessary for enabling the employment contract of the person in question to be fulfilled and for ensuring the employer's compliance with statutory obligations resulting from employment legislation or the rules on preventive medicine;

2. make no reference to really personal or private data, particularly data relating to sex and sexual orientation, race, religion or political views and contain no medical data other than the results of check-ups performed by the works doctor;

3. in any case, contain no unlawful data that might be used to justify an employee's transfer, reclassification or dismissal;

b. by placing employers under an obligation to respect the principle of transparency, in particular by:

1. guaranteeing employees the right to receive prior notice of the existence or creation of personal files or systems used to monitor staff or their productivity;

2. requiring that employers seek their employees' prior and explicit consent to the firm's use of such monitoring systems and files;

3. establishing the right of employees to have access to documents and to correct data contained in any files held on them;

4. guaranteeing the right of employees to be informed of any personal data concerning them;

11.2. respect for working conditions:

a. by guaranteeing employees or their representatives the right to be informed in advance of the introduction of new technologies that are likely to affect employees' working conditions, skills, pay or training;

b. by making sure that employers provide for reasonable daily and weekly working hours that are as well as a weekly or Sunday rest period and annual paid holidays, in accordance with the provisions of the European Social Charter;

c. by making sure that the periods when staff are required to be on call do not, as such, or as a result of their frequency or duration, encroach upon an employee's private life by demanding an excessive degree of availability;

d. by bearing in mind the need to put a stop to the social isolation and marginalisation of teleworkers and to ensure that all employees maintain social ties with their firm;

e. by updating the components of employees' wages to take account of the conditions for performing work involving new technologies, in order to ensure that wages are fair and just;

f. by guaranteeing that employees' health is protected against the hazards and new illnesses caused by the use of new technologies, and that teleworkers undergo regular medical check-ups.