

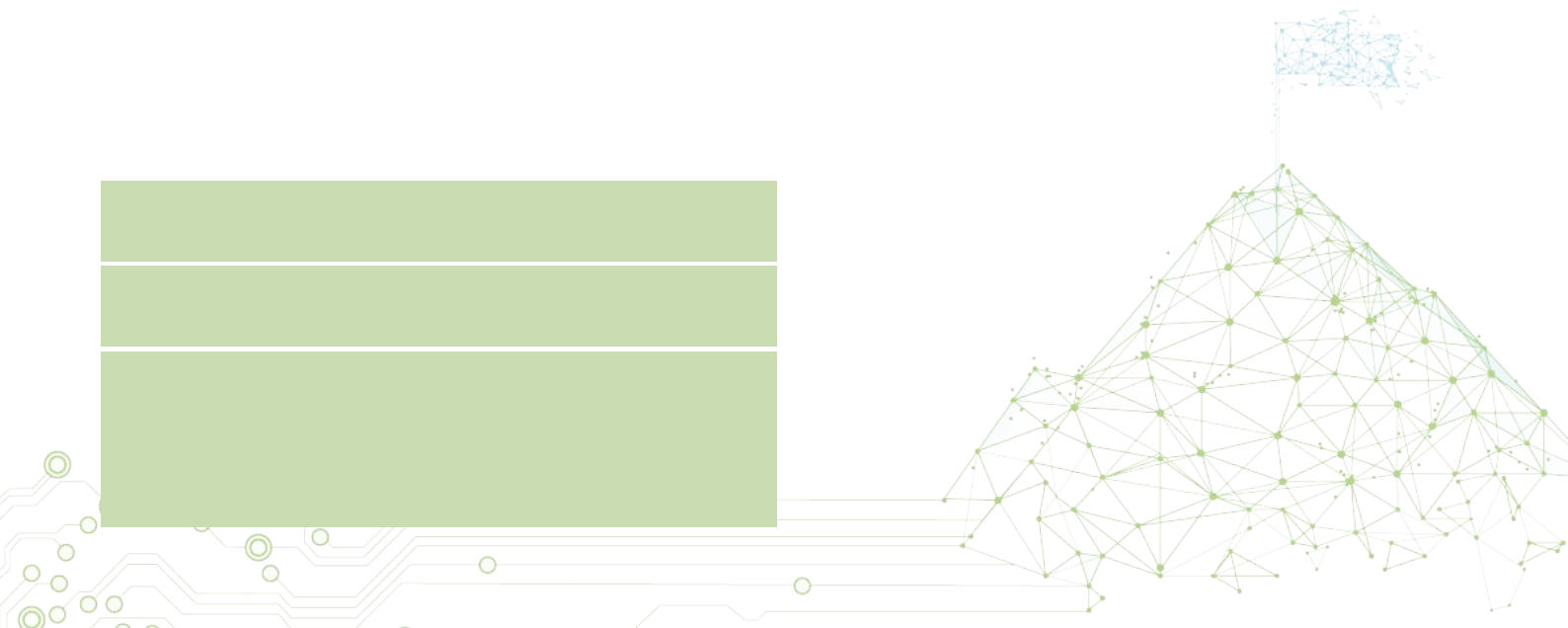






## 2 FRAMEWORKS FOR REMOTE WORK AND COWORKING

Analyzing the evolution of the legislative framework for remote work in France, Italy, and Austria holds significant importance for several reasons. Understanding the legal foundations governing remote work provides clarity on the rights, responsibilities, and obligations of both employers and employees. These analyses shed light on how these countries adapt their legal systems to accommodate changing work dynamics, accelerated by technological advancements and the COVID-19 pandemic. Furthermore, examining the legislative changes prioritizes and protects the rights of remote workers. Elements such as voluntary participation, equipment provisions, working time regulations, safety measures, and dispute resolution mechanisms ensure a fair and secure working environment. For businesses operating across these countries or considering international expansion, understanding the differences and similarities in remote work legislation is crucial for compliance and strategy formulation. It aids in adapting to diverse legal frameworks and formulating effective remote work policies. Moreover, analyzing these legislative frameworks helps comprehend the implications for global workforce management, cross-border taxation, compliance with international labor standards, and the challenges of remote work in different jurisdictions. Finally, understanding how legislation addresses employee well-being, work-life balance, and the integration of personal and professional life is crucial. This analysis serves as a guidepost for navigating the complexities of remote work legislation, fostering compliance, eq-



ment and not the one provided by his employer, the company will not be responsible for its maintenance.

### **Duties of professionals**

To ensure that employees have equal access to remote work, the company will have to decide on the conditions of eligibility for remote work (e.g., eligible positions, years of service, etc.) If this is not the case, the employee who is refused remote work can sue the company. It is also possible for a company to refuse 100% remote work.

### **Remote workers' rights**

According to the law, as soon as a remote worker wishes to do so, he or she can return to the company premises as stipulated in the employment contract. However, the employer cannot force the remote worker to return against his will without a valid reason. In any case, the employer has an obligation to inform the employee about the remote work opportunities and to inform about the position with or without remote work. For each company, it is the collective agreements and internal charters that specify the employee's rights regarding remote work. These documents will specify, among other things, the conditions of implementation of remote work, the modalities related to the control or regulation of working time and workload, the hours during which exchanges with the company can take place, the modalities of access to remote work for disabled people, etc.

Article L. 1222-9 of the French Labor Code specifies that when remote working, the employee does not lose his salary rights. He will therefore be covered by social security in case of an accident during his working time, even outside the company. Also, according to labor legislation, the employee has the right to "disconnect" and will fix, with his employer, his schedule not to be disturbed outside these hours so that he can disconnect from any digital tool during his rest time.

### **Duties of remote workers**

A remote worker is an employee and must, therefore, respect



As ERT regulations are more flexible than ERP regulations, the safety commission doesn't need to visit the premises before opening. Additionally, intervention by a technical controller isn't mandatory. Periodic security commission visits aren't imposed for ERTs, unlike ERPs in the first 4 categories.

### **Coworkers' rights**

To ensure that coworking space managers respect their duties, coworkers can, before moving into a coworking space, ask to see the supporting documents.

If the manager doesn't adhere to the rules, leading to an incident, their liability may be questioned.

For coworkers considered as "neo-nomadic", who often change spaces, a tool, called the PASS Coworking, allows them to refer to a trusted third party who will check the commitments of the manager of the visited spaces via a platform. SYNAPHE, a professional organization for business centers and coworking spaces, is considering establishing a standard. This standard aims to assist space managers or aspiring managers in meeting coworker and company expectations, particularly in terms of control. Following this process could lead to obtaining a periodically reviewed certificate, signifying quality. However, this may pose financial challenges for smaller structures.

## **2.2 Analysis of the evolution of the legislative framework for remote work in Italy**

### **2.2.1 Introduction**

The global spread of remote work (in Italian literally lavoro agile) has been facilitated by the COVID-19 pandemic. Gov-



tween organizations representing workers and employers. Subsequently, the agreement was adopted in Italy through the Accordo interconfederale on 9 June 2004<sup>2</sup>. This agreement was endorsed by the most influential national trade unions and by organizations of business representatives. The Accordo interconfederale mandates adherence to its regulations by all stakeholders—businesses, workers, and their respective representative bodies at various levels—associated with the endorsing organizations. As such, it stands as an agreement that obliges nearly all private companies operating in Italy to uphold its provisions. This agreement recognizes that teleworking must be a deliberate decision made jointly by the employer and the employee. It can either be stipulated in the initial job description or stem from a voluntary commitment made subsequently. In either scenario, the employer is obliged to provide the relevant information in written form. Should an employee express a desire to transition to telework, the employer has the right to accept or decline. If accepted, the teleworker is entitled to the same rights as an equivalent individual working on the company's premises. Nevertheless, to accommodate the unique nature of teleworking, specific supplementary agreements, whether collective or individual, may be implemented.

The employer is accountable for safeguarding the health and ensuring the safety of the teleworker and is obliged to communicate the company's occupational health and safety policies to the teleworker, especially concerning exposure to video displays. The employer must take measures to prevent the isolation of the teleworker from other workers by ensuring the opportunity to meet regularly with colleagues and access company information. Teleworkers shall enjoy the same opportunities for access to training and career development as comparable workers performing activities



contravening this provision is deemed retaliatory or discriminatory and is consequently considered null and void. According to Article 19 of Law 81/2017, the agreement pertaining to the remote working arrangement must be formally established in writing, on either a temporary or fixed-term basis. This written agreement serves the purposes of proper administration and recording of evidence and is required to regulate the execution of work conducted outside the company premises, including aspects such as the exercise of the employer's managerial authority, tools utilized by the worker, the worker's rest intervals, and the technical and organizational measures essential for ensuring the worker's disconnection from work-based digital technology.

The Decree Proroghe 2023 – Decree-Law of September 29, 2023, No. 132 *'Disposizioni urgenti in materia di proroga di termini normative e versamenti fiscali (Urgent provisions on the extension of regulatory deadlines and tax payments)* in force from 30 September 2023, provides for the extension until 31 December 2023, of 'simplified' remote work for private and public workers referred to as "fragile." The term "fragile" refers to those who meet the criteria set by the Ministerial Decree of 4 February 2022 (Article 28-bis), which identifies chronic and particularly severe illnesses.

### 2.2.5 The right to disconnect

The abundance of literature on this topic highlights the strong interest of the academic community in this emerging concept. Nevertheless, it is important to point out that legal scholars, in particular, have expressed concerns about





### 2.2.6 Limitations of Italian legislation

Italian legislation dates back to 2017, and since then, especially in the post-pandemic period, there has been a radical change in perspective. Therefore, we need to highlight some limitations of the Italian legislation that governs remote work, both in the private and public sectors. First and foremost, it's crucial to note the absence of comprehensive legislation on the matter. Article 18 of Law No 81/2017 places remote work alongside other modes of work (such as teleworking or home-working), sharing some characteristics but differing in the non-continuous nature of the service performed outside the company premises. In Italy today, there is a need for legislation that regulates and emphasizes the distinctions between these individual scenarios. Secondly, emphasizing the need for structured legislation in this regard, there is a call to introduce specific regulations for the use of remote work by vulnerable/fragile workers to ensure parents/guardians/carers have the right of access to this mode of work. Thirdly, the National Protocol has the limitation of not adequately regulating the issue of choice of workplace. In fact, the Protocol merely acknowledges the worker's ability to choose but does not specify anything regarding the employer's responsibility to ensure the safety of the workplace. This aspect is particularly relevant concerning coworking spaces. Both public and private enterprises might designate coworking spaces as a third-party area (*a tertium genus*) for carrying out work activities. On this matter, there are three main issues to address: a) the restructuring of spaces for remote work; b) the costs of renting workstations; c) the need for suitable technological devices. On this matter in particular, Italian public adminis-



fostering a harmonious and mutually beneficial relationship between employers and employees. This document serves as a beacon, illuminating the path through the legal intricacies, bringing clarity to questions surrounding the implementation of remote work, employer-employee agreements, provision of office equipment, reimbursement of expenses, health and safety responsibilities, and the broader implications of the legislative changes introduced in 2021. In navigating this exploration, the document not only sheds light on the current situation but also delves into the historical evolution of legislation, providing a holistic perspective on the trajectory of remote work in Austria. Moreover, the study unveils the unique challenges and opportunities brought forth by the legislative amendments, offering insights into the delicate balance between flexibility and regulatory adherence.

As we embark on this journey through the legal landscape of remote work in Austria, it is our endeavor to equip employers, employees, and stakeholders with a comprehensive understanding of their rights, obligations, and the overarching framework that governs their professional engagements. This document acts as a cornerstone in the ongoing dialogue surrounding the future of work, advocating for informed decision-making, legal compliance, and the creation of work environments that reflect the evolving needs of a dynamic workforce in Austria.

### **2.3.1 Evolution of legislation on remote work in Austria**

The legislative journey shaping the landscape of remote work in Austria is deeply rooted in historical contexts. Unlike many European nations, Austria's approach to remote work has been a product of nuanced evolution rather than a sudden paradigm shift. Historical perspectives shed light on



### 2.3.3 Conclusion and implications

In this final chapter, we delve into the conclusions drawn from the analysis of Austria's remote work legislation. Additionally, we explore the implications this legislation carries for both employers and employees, shedding light on the broader impact within the Austrian work landscape.

#### Key findings

The examination of Austria's remote work legislation has revealed several key findings that encapsulate the essence of this regulatory framework. These findings serve as crucial takeaways for anyone navigating the landscape of remote work in Austria.

- **Voluntary Nature of Remote Work:** the legislation underscores the voluntary nature of remote work, emphasizing the necessity for mutual agreement between employers and employees. This preserves the autonomy of both parties in deciding whether remote work aligns with their preferences and operational needs.
- **Written Agreements and Termination Procedures:** remote work arrangements must be documented in writing, and either party can terminate the agreement with one a month's notice for significant reasons. This formalized approach ensures clarity and transparency in the remote work relationship.
- **Equipment Provision and Compensation:** employers bear the responsibility of providing necessary work equipment for remote employees, including an internet connection. Alternatively, compensatory lump-sum payments can be agreed upon. Tax regulations introduced in 2021 contribute to the clarity of compensation rules, covering various incurred costs.
- **Adherence to Working Time Laws:** remote workers are subject to existing working time laws, ensuring that



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