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JOINT DECLARATION ON REMOTE WORK AND NEW TECHNOLOGIES

BY THE EUROPEAN SOCIAL PARTNERS IN THE BANKING SECTOR

PREAMBLE

The impact of modern technology on employment in banking has been a key area of focus for the European Bank Sector Social Partners for the past two decades, from the 2001 first Joint Declaration on [IT-Employability](#) to the 2017 Joint Declaration on [Telework](#) and the 2018 Joint Declaration on the [Impact of Digitalisation on Employment](#).

The effects of digitalisation on the financial sector are profound, especially since all its services are immaterial and consequently can be digitised via information and communication technology (ICT). It is evident that technology, including Big Data, will continue to be a driving factor in the development of the banking sector, and people have a key role in digitalisation, data rights and algorithmic management.

The pace of digital change and technological innovation is now picking up speed. With it come both challenges and opportunities for the Social Partners to address.

The introduction of digitalised systems and processes can lead to major transformations of work organisation. One challenge is finding working methods that combine the expertise with creativity, social interaction, and flexibility. New forms of work are needed, including flexible working hours and remote work. Flexibility goes both ways, allowing for higher productivity as well as a better work/life balance, which in turn benefits both the companies and their employees.

It is to this more long-term and voluntary approach to remote work that the Social Partners refer in this Joint Declaration, committing to remote working arrangements that combine employee and employer interests, e.g. shared requests for more flexibility while safeguarding working conditions, collective, labour, trade union, works councils and digital rights, and for employees to deliver high productivity and flexibility in a banking sector undergoing changes because of digitalisation.

Remote work is not a new phenomenon in the European Banking Sector. However, since early 2020, the rapid spread of the Covid-19 virus and subsequent lockdowns have sped up the remote working trend. It exists in many variations ranging from working fully remotely to a combination of work in the office with work outside the office in varying degrees. While it is unlikely that these levels of remote work during Covid will continue post-pandemic, longer-term demands for more remote work under 'normal' circumstances are nonetheless likely to increase.

I. DEFINITION OF REMOTE WORK

The Social Partners understand remote work to be a form of organising work where part of or all tasks are performed with the support and the use of secure ICT devices and ICT-infrastructure provided by the employer, during agreed working hours, and at a location chosen by the employee and/or employer according to the employment contract (for security and especially cybersecurity reasons) outside a locally fixed environment, respecting all necessary health and safety requirements and other pre-determined criteria.

II. SOCIAL DIALOGUE, COLLECTIVE BARGAINING & COLLECTIVE TRADE UNION RIGHTS

Remote work should not lead to any significant changes in the terms and conditions of employment beyond those governing the remote workspace and use of equipment. Remote working rules should be considered as a subject of collective employee involvement, including collective bargaining. Freedom of association and workers' collective rights, including to social dialogue and collective bargaining, are to be guaranteed also in a remote work context.

To allow for fair representation and ensure that trade unions and employee representatives can maintain effective contact and organise remote employees just as they would those in a physical workplace, employers should provide them with access to the remote workforce mirroring the rules and regulations that govern such access in the physical workplace. Tools put to the disposal of trade

unions and employee representatives must also be available in a remote work / virtual context (e.g., access to electronic communication and virtual bulletin boards), with full privacy and data protection guarantees. The employer should provide opportunities for communication and engagement between trade unions, employees, and their representatives, including assemblies, secure digital meeting spaces similar to break room and cafeteria access in physical workplaces.

Employees working remotely are allocated and included in calculations for determining thresholds for and election to employee representative bodies in accordance with European and national law, collective and works councils' agreements and/or any other relevant practices. Companies should not exclude remote employees from the determination of bargaining thresholds and these employees should have the means to take part in and stand for elections to trade unions and other employee representative bodies and to vote regarding collective action. To this end, companies must provide information on the election process by all available means and in good time.

III. WORK ORGANISATION AND EMPLOYMENT ASPECTS OF REMOTE WORK

A. TERMS AND CONDITIONS

All employees who are working remotely benefit from the same employment rights and conditions, guaranteed by applicable legislation and collective agreements, as comparable to employees at the employer's premises. Their contract of employment is not to be significantly amended as a result of working remotely and all existing rights and benefits are maintained. Remote work should not be used to shift employment status from stable long-term labour contracts to non-standard forms such as temporary agency or independent contracting arrangements.

The collective terms of the remote work agreement should be negotiated by companies, trade unions and employee representatives through national, sectoral and/or company collective agreements. The workload and allocation of responsibilities should be outlined and be equivalent to those of comparable employees based at the company's premises. Performance criteria should be the same for all, whether working remotely or not.

Employers are maintaining and facilitating relationships with and among all the employees no matter where they work. This includes both individually and in a wider staff setting, offering support as required, such as communication tools and networks for colleagues to keep in touch with each other, including in more informal and online settings.

B. AN ADAPTABLE PATTERN OF REMOTE WORK

The organisation of work, including the decision to permit certain tasks to be performed exclusively remotely, remains with the employer. Remote work should be subject to the agreement of employer and employee and thus can be agreed to be voluntary and reversible by both parties. It can be part of the original job description and if it is not, the employee shall have the possibility to either accept or decline the offer according to national law and collective bargaining practices. Employees should have the possibility to request the option of working remotely and if refused, the company should objectively justify the reasons according to the national law, collective and works councils' agreements. Employees should also be able to choose to combine remote work with office-based work in a pattern that works best for the employee and the company and should be treated equally whichever work pattern they choose.

In cases of major remote work restructuring, permanent worksite closure and/or the digital off-shoring of jobs, the employer should discuss the restructuring terms according to national law and customs with the relevant Social Partners or worker representatives. If workplaces are closed, practices can include offering the option to transfer to another remaining and unoccupied workplace (including remote work provided there is the possibility for this option).

C. HEALTH AND SAFETY

The occupational health and safety of remote employees is regulated and followed in accordance with EU Directive 89/391EEC and the relevant daughter directives, national legislation and collective agreements. Employees who work remotely may face different health and safety risks than those who work from the regular office and attention should be directed to ensure the well-being of all. This includes the generally applicable employee protection rules, according to the relevant European and national legislation, collective and works councils' agreements and customs.

Remote employees and their remote workplaces are subject to a mandatory occupational risk assessment in accordance with the legislation in force at any given time.

To reduce psycho-social risks related to potential feelings of isolation, remote employees should be given the opportunity to regularly meet and communicate with colleagues (both formally and informally) and to access employer events. While remote work may reduce face-to-face forms of harassment at work, it may lead to a higher risk of technology-enabled harassment such as work-related cyberbullying. Hence, policies should be put in place or existing policies extended to prevent, monitor and minimise these situations, and these policies should be made known to all employees.

D. WORK-LIFE BALANCE

Maintaining healthy working conditions and an appropriate work-life balance continue to be key aims of the Social Partners in the digitalisation process. As a consequence of continuing digitalisation, it is important to consider the potential challenges that may come with the possibilities for more flexible work, including remote work. Remote work can be a measure to improve and maintain work/life balance.

E. WORKING HOURS AND THE RIGHT TO DISCONNECT

The conditions of working time have to comply with company rules, collective and works councils' agreements, national and European law. Remote employees are entitled to the same rest periods, hours of work, time recording, holidays and leave as employees working in the workplace, and to a general right to disconnect outside contractual working hours, including determined working hours, respecting the legal and contractual framework applicable, including on night shifts where applicable. For employees with designated hours, remote work should not be used to extend hours or to reduce rest periods between scheduled working times. Employees who are subject to overtime rules should be compensated in the same manner as if the extra work were performed in the workplace. Remote on-call duty has to be governed by the same rules as if performed by employees using office workplaces, including a possible on-call or standby allowance.

The remote employee shall be available within the time period which was predetermined by the employer or as agreed with the employee (including in collective agreements). Such agreement could also cover situations where it is not possible for the remote employee to respect these times, and when they would need to report and justify this to the employer. A clear and realistic timeframe for the performance of duties should be determined clearly from the outset and monitored as needed.

F. RESOURCES & EQUIPMENT

When agreed accordingly, the employer is responsible for providing, installing maintaining and replacing the equipment necessary for remote work (e.g.: hardware, software, ergonomic equipment) and for other agreed variable costs. The company is obliged to ensure the cybersecurity of the equipment, data protection, employee privacy and other relevant rules according to national and European law. If it has been agreed that the employee uses his/her own equipment such usage is subject to the all the applicable cybersecurity, data protection usage, employees' privacy and other relevant rules.

Terms and conditions regarding the use of equipment needed to perform remote work are to be clearly defined in advance and outlined in accordance with the EU Written Statement Directive.

G. TRAINING AND DIGITAL COMPETENCE DEVELOPMENT

In terms of training and re-/up-skilling opportunities, career guidance and development, and appraisal policies, remote employees benefit from the same rights and access as their office-based colleagues. Employers should strive to ensure that training takes place during working hours and when a remote employee must report to the office, for example for face-to-face training or a necessary meeting, sufficient notice shall be given to enable the remote employee to plan their working day.

Trade unions have a responsibility to communicate the importance of training and competence development to their members. Retraining and adapting to new working realities should be one of the priorities to be addressed by both the employers and the trade unions. Training plans should also include actions to help bridge the digital divide and ensure employability.

In terms of content, training for remote employees can include training specific to this way of working, i.e. on the rules, obligations and rights of the remote employees, on time management and planning, e-mailing and e-archiving, and on the related software, hardware and any other technical aspects/equipment necessary for the remote employee to perform adequately, including awareness for dealing with a possible lack of social contact, cybersecurity and protection issues, and leadership and management of remote employees.

Employers ensure, where appropriate, that remote employees are 'visible' within the company and provide them with opportunities for regular face-to-face meetings for career development and mentorship to promote their growth and advancement, including the creation and building of workplace networks.

H. EQUAL OPPORTUNITIES: REMOTE WORK SHOULD BE OPEN TO ALL

The Social Partners believe that the option to work remotely must be available without any type of discrimination and be considered as an equally valuable form of work. The Social Partners agree that remote work respects diversity.

Assessments of jobs that can be performed remotely should cover all areas of activity. If an assessment shows that remote work is undertaken predominantly in only some specific job categories or only by certain employees (based, e.g., on gender, age, position, etc) an investigation of the underlying causes is recommended in order to rule out and prevent discriminatory policies.

As the March 2021 EU Commission report has indicated¹, Covid-19 was "a major challenge for gender equality". The Social Partners commit to monitoring and assessing any difficulties for the employee when the home becomes a workplace within the context of remote work, including cases of domestic violence.

IV. REMOTE WORK AND DIGITAL RIGHTS

The Social Partners consider that the advance of remote work and the increased use of digital devices to carry out such work make it necessary to guarantee a series of digital rights in accordance with applicable law.

¹ EU Commission, 5 March 2021 (https://ec.europa.eu/commission/presscorner/detail/en/IP_21_1011)

Achieving compliance can include Social Partner protocols for the use of digital devices made available to employees, including specifying the type of use of such devices and safeguards to preserve the privacy of employees.

A. RESTRICTING USE OF SURVEILLANCE TOOLS

While information and communication technologies can facilitate work processes, constantly evolving technologies for monitoring and surveillance (including geo-localisation) can also create excessive controls, invade privacy (including data rights), and affect working relations.

The use of surveillance tools to monitor remote employees (video surveillance, sound recording, biometric controls, remote monitoring, indexing of internet browsing, checking of e-mail and/or computer use), store their data, and in disciplinary proceedings, should be proportional, transparent and in compliance with national or local law and/or a trade union collective agreement.

B. ALGORITHMIC DECISION-MAKING

Employees have the right not to be subject to decisions based solely and exclusively on automated variables that affect them legally and significantly. For example, profiling, personnel selection, internal promotion, changes of function and professional grade level, the system of sanctions, and performance evaluations are always subject to the “human-in-control” principle. Each employee has the right to express their point of view and to challenge the decision.

Companies shall inform and consult with the employees, trade unions and employee representatives on relevant aspects of algorithmic decision-making by companies in advance, according to European and national laws, collective and works councils’ agreements and customs.

C. DATA PROTECTION & CYBERSECURITY

It is the employer’s responsibility to take measures to ensure data protection, employee privacy and that the remote employee’s software and hardware are updated and secure, whilst the remote employee is bound to strictly follow all applicable data protection and cybersecurity rules related to both the software and hardware.

The employer, together with all remote employees, must abide by and respect the provisions outlined by the EU GDPR (General Data Protection Regulation), national legislation, ethics policy, the confidentiality and security clauses issued by the employer, and any other similar clauses as stated in individual contracts. The employment parties are responsible for taking appropriate measures to ensure the protection of data used and processed for professional purposes. The employer informs the employee beforehand (and offers training where necessary) of all relevant legislation and company rules concerning data protection and security issues related to data loss, hacking, confidentiality breaches, etc.

The employee is responsible for complying with the company’s data protection protocols and the company’s policies in this area, following instructions received. This responsibility is even greater than normal when the employee is working remotely, as the employer does not have regular access to the remote workspace and thus cannot control who else might also have access.

The employer ensures that appropriate security levels are in place, taking into account the privacy of the remote employee, and that any monitoring system is in accordance with applicable European and national legislation or collective agreement at national/sectoral/company level.

V. INTRODUCTION, MONITORING AND EVALUATION

Before introducing or extending collective remote work rules, these should be jointly discussed and agreed by the employers, trade unions and employee representatives at the relevant level, including establishing a process of monitoring and evaluation.

VI. MOVING FORWARD / NEXT STEPS

Effective social dialogue is a positive tool to deal with remote work. In a digital era, the Social Partners should jointly work to promote social dialogue at all levels, including collective bargaining, for the benefit of all stakeholders involved.

The Social Partners commit to promoting this Joint Declaration in the best feasible way at the European, national, sectoral and company level.

To this end, the Social Partners request the European Commission to translate the Joint Declaration into all EU languages to facilitate its dissemination, visibility and take-up at these various levels.

The Social Partners will monitor the implementation process and remain open to discussing new issues and trends, and how opportunities and challenges can best be addressed by the Social Partners at the appropriate level.

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