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--- Draft USF Congress paper ---

“Digitalization and Teleworking”

USF 2023 Congress claim - Implementation of the “European Framework Agreement of European social dialogue committee for central government administrations (SDC-CGA) on digitalisation”, 6th Dec.2022

The many economic constraints put on almost all employers with the COVID pandemic since 2020 triggered a massive effort to boost digitalization and shift as much work as possible into telework. As the survival or the viability of employers was at stake, entailing serious consequences on both employers and employees, initially little time and energy was available to reflect on, discuss and negotiate principles and rules to safeguard fair conditions under the dramatically changed circumstances. These principles and rules are now needed in the post-COVID era as policies often labelled as “New Way of Working” are being introduced as a permanent framework.

To correctly assess the magnitude of the “New Way of Working” it is worth noticing that the industrial revolutions massively shifted the focus of work from home to factories and mills. This had a huge impact on urbanisation, mass transport and human or social interaction outside the home environment. The shift of human interaction to centralised production sites also facilitated the creation of unions and increased the impact of their actions. We are now probably witnessing the beginning of a reverse shift of workplaces back home. The possible consequences for union activities and employees’ rights especially in the International or European public service call for highest attention of the 2023 USF Congress.

The landmark agreement for the USF Congress is the “European Framework Agreement of European social dialogue committee for central government administrations (SDC-CGA) on digitalisation” (referred to as the “Agreement” in the following), concluded on the 6th December 2022 (in Brussels) between:

The Social Partners, Trade Unions’ National and European administration delegation (TUNED) and the European Public Administration Employers (EUPAE), within the social dialogue committee for central government administrations.

The USF Congress claims the implementation of the Agreement with a particular attention to the situation of international, largely expatriate staff who encounter high challenges in terms of work-life balance and family constraints. USF affiliates will develop specific claims in order to take account the special challenges their members face. In particular, working in the country of origin or other Member States must be opened up within reasonable limits, following a thorough processing through internal social dialogue procedures.

There will be a particular focus on the right to disconnect, taking note that the International and European Organisations appear to be lagging behind practice and legislation at national level.

The USF Congress adopts the subject-matter of the Agreement for implementation into the various legal orders where USF affiliates are present.

The USF Congress also claims that the Agreement be enacted as a European Directive under Art.151-155 of the Treaty.

The Agreement foresees under "11. Implementation" a number of constraints which the USF Congress translates into a claim for the relevant international or European environment.

These implementation constraints must be read as the central USF Congress claim related to digitalization as follows:

1) International or European Organisations [Member States] and/or social partners may maintain or introduce more favourable provisions than set out in this agreement.

2) Implementation of the provisions of this Agreement shall not constitute valid grounds for reducing the general level of protection afforded to workers in the field of this agreement.

3) In accordance with international law [national law] and practice, International or European Organisations [Member States] encourage and guarantee that social partners can maintain, negotiate, conclude and enforce collective agreements which establish arrangements on digitalization at work provided that the principles and results sought by this agreement are ensured at all times.

4) This agreement shall not prejudice the right of social partners to conclude, at the appropriate level, agreements adapting and/or complementing the provisions of this agreement in order to take into account particular circumstances.

5) International or European Organisations [Member States] shall adopt the laws, regulations and administrative provisions necessary to comply with the Agreement [Council decision] within a period of two years from its adoption or shall ensure that social partners introduce the necessary measures by way of agreement by the end of this period.

6) The prevention and settlement of disputes and grievances arising from the application of this Agreement shall be dealt with in accordance with international [national] law, collective agreements and practice.

The USF Congress also claims that the International or European Organisations pay attention to the follow up of the Agreement as defined in the following points of the Agreement:

7) Without prejudice to the respective role of the Commission, national courts and the European Court of Justice, any matter relating to the interpretation of this agreement at European level should, in the first instance, be referred by the Commission to the signatory parties who will give an opinion.

8) The Commission, after consulting the Member States and the social partners at the Union level, shall submit a report to the European Parliament and to the Council on the implementation three years after publication in the Official journal of the European Union.

9) The signatory parties shall review this Agreement, three years after the date of the Council decision, if requested by one of the parties to this Agreement.