



**TWING PROJECT**

# Austria – Portugal

## **Transferability workshop**

### **report**

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## Introduction

The general idea of the workshops is to identify good practice examples and prepare groundwork for their transferability to other social partnership contexts in other sectors and/or countries. To make practice examples transferable the aim of this report is to put spotlight on contextual preconditions in which the telework practices are realized, as well as the features that enable or facilitate the transferability of practices. The context for this reporting structure includes a general industrial relation setting but also concrete agreements on a company or an individual level.

## 1. Setting of the focus group discussion

Who are the participating social partners? What sectors are covered? What organization do they represent? What is the organisation's general stance towards telework?

### 1.1 Workshop and focus group discussion participants

The participants at the Vienna workshop taking place at the offices of FORBA on June 13<sup>th</sup> were a HR representative of Imprensa Nacional – Casa da Moeda, a representative of ANIMEE, a Public Service Union representative and a works council representing an Austrian IT-company. Also participating in the workshop were Nuno Boavida from Universidade Nova de Lisboa and Georg Adam and Philip Schörpf from FORBA. Interpretation between Portuguese and German were provided simultaneous. The workshop started at 9am and lasted until 1:30pm.

The sectors present were the Electrical and Electronic Sector (employer representative), the IT-sector (works council and the public sector (employee representative and HR Director).

### 1.2 General stance towards Telework

The views of the participants on teleworking seem to be both similar and different based on the discussions in the focus group. The primary differences among the participant countries arise from their varying industrial relations systems: in Portugal, some telework policies are managed through the Portuguese Labour Code, yet much of it is also arranged at the company

level or agreed individually between employers and employees. In Austria, while some facets of telework are governed by law and collective bargaining, there's typically a requirement for company agreements to iron out specific details of telework. Individual arrangements between employers and employees concerning telework are not common in Austria. In both Austria and Portugal, working from home must be voluntary and working from home must be agreed in writing.

In Portugal, a law stipulates that the employer may inspect the teleworking site at the employee's home, but that this is rarely done in practice. The law is intended to protect employees by ensuring that they have adequate working conditions at home. The inspection of the workplace must be announced by the employer 24 hours in advance and employees also have the right to refuse the employer's visit.

*“During the visit, only the work equipment may be inspected, and it may only take place in the presence of the employees and during working hours.”* HR, public sector, 316-321

In Austria, the opposite is the case: employees do not allow any intrusion into their privacy, although the employer might remain liable, for instance for work accidents when working from home. The inspection of home office equipment is being discussed at both company and social partnership level in Austria.

## 2. Status quo in the two sectors

How common are telework practices? Who pushes for which practices? What are general positions? What is the status of regulation?

### 2.1 The IT sector

The IT sector in Austria had a collective agreement on telework since 2006, much earlier than other sectors. Since 2021 the “Employment Contract Law Amendment Act” (AVRAG) regulates a legal definition and very basic issues on the employment contract for working from home. The main parties involved in the negotiation process in IT and consultancy are the GPA union, with support of the Chamber of Labour for the worker representatives, and the Economic Chamber and representatives of major companies for the employer representatives. However, despite the early regulation of telework through collective bargaining in the sector, telework is typically regulated with company level agreements, also because the Amendment Act regulates only certain aspects of telework, but leaves others up

for negotiation. The negotiation process on issues of telework was in recent years no priority. The last changes to the collective agreement concerning issues of telework were made in 2020. Telework is a very widespread practice in the IT sector and in the IT company that was represented at the focus group discussion, there is the full range of people doing telework.

In the sector there are few relatively large employers on the one hand and many sole proprietors on the other hand. In the large companies typically there exist company agreements. However, sole proprietors do not fall under collective agreements. In the case of small businesses with very few employees, such as start-ups for instance, telework might be agreed on in individual contracts between employers and employees. However, the participants argue that due to skill shortages in Portugal and Austria employees may choose their employer more freely and the option to (flexibly) work from home might be a crucial reason to take a job. This in turn means for employers that they have to offer the (new) employees to work from home. The option to telework becomes a necessity to attract new personnel.

## 2.2 Public sector

The public sector aggregates very heterogeneous management levels and type of actors. In Portugal, collective bargaining does not exist in the central administration subsector. However, there are examples of company agreements in many municipal and national public companies. Furthermore, the variety of actors also reflects in their topics of interest, priorities, processes, outcomes and flexibility approaches to collective bargaining. Hence, different telework topics were regulated in public company agreements. Recent examples showed that these topics range from telework cost up to working hours, restrictions to telework, conditions to be available on-site, duty to be at home, ensure the same levels of service, comply with the working hours, rules regarding the organisation and provision of teleworking, particularly regarding the recording and control of working times and the fulfilment of the obligations assumed by the worker, simultaneous face-to-face contact at least once a month and provider of the work instruments, equipment and systems. Thus, it can be said that the public sector has company agreements regulating very different topics of telework.

Telework in the public sector was discussed in the focus group from different viewpoints. The Portuguese public sector representative works in a company that is owned by the state but otherwise operates similar to a private company. Regarding telework arrangements this means that there are little general agreements in the public sector as a whole but rather companywide agreements and regulations. Prior to the COVID pandemic there was very little

telework in Portugal and especially in the early stages of the pandemic, the unions were strongly opposing telework. Important for the Portuguese public sector representative are different access to telework due to the specific task profiles of employees and lead to discontent among the workers:

*“We have a large share of workers in our company whose work is incompatible with telework. This led to a strong division of the workforce along these lines. Half of the workers had to remain in the office, while the other half could work from home.”* HR, public sector 590-594

Collective agreements generally play no role in the public sector in Austria because the working conditions (including salary) are formally determined unilaterally by law or statutory regulation. In reality, however, the working conditions are negotiated between the employer and the Public Service Union (GÖD). In principle, teleworking was already regulated before the pandemic in the Civil Service Act (§ 36a BDG) and the Contractual Employees Act (VBG). However, teleworking was practised very differently in the individual ministries. Telework in the public sector was possible since 2005, even though it was very rarely used until 2019 and needed to be approved by employer and employee in written form. The representative for the Austrian public sector states that employees can work a maximum of 40% of their working time from home and overall telework is not a too widely adopted work practice in the public sector.

### 3. Description of the best practice example presented by a social partner

The representative of the IT company details how working from home is regulated in his company: employees need to inform their managers about their intention to work remotely at least a day in advance. Unless the manager has operational reasons to decline, the request is considered approved without further discussion. This is important insofar as in practice requests for working from home are very rarely denied according to the focus group participant and this translates to a rather employee-favoured telework regulation. The protocol for this was established with an agreement when remote work was introduced in 2006 and has remained unaltered since there was no requirement to intervene for the works council, as there was enough flexibility in this agreement (i.e. not specifying days for telework), allowing some room for interpretation among the parties involved. However, the onset of the Covid-19 pandemic shifted the view on telework as it extended the practice to additional departments, like the call centre employees.

In the public sector the participants from Portugal and Austria paint different pictures of the access to and the regulation of telework. In Portugal the COVID pandemic marked a turning point for telework, when half of the employees in the participant's company started to work from home. Telework was and is in this company until today agreed on between the employees and their direct superiors.

*"The managers have to assess if the employee's work is suitable to be carried out from home [...] and then the employees can decide if they want to work from home, if they want to do hybrid work or stay at the office full time."* HR, public sector 605-609

Such agreements were initiated following the pandemic but are more or less similar today and all employees who chose to work from home, have similar agreements today.

In the Austrian public sector, telework is negotiated between staff councils and the ministries and results in laws. Since 2019 occasion-related (anlassbezogen) telework was introduced. This agreement needs to be set out in writing and defines in detail certain aspects of telework.

*"This written agreement, which is only valid for one year and can then be extended for another year, must specify the type, scope, quality and form of teleworking, as well as which tasks can be carried out while teleworking. The procedures, the official processes and the form of communication must also be set out in writing."* union representative, public sector, 139-144

It was also stipulated that if an employee requests teleworking and the employer refuses, the employer must state in writing why teleworking is not possible. Furthermore, the employees need to carry out their telework during a defined timeframe (Rahmenzeit), for instance from Monday to Friday between 6:30 and 19:00. Typically, there are also limits to how much working time can be spent teleworking. The public sector representative gives an example of a limit of 40% of the working time, no matter if working part time or full time. Like everywhere else, the pandemic led to a spike in telework in the Austrian public sector. Since 2023 an additional regulation was introduced concerning equal treatment of employees in telework regarding for instance information flows or career perspectives.

#### **4. Favourable and impedimental factors and features for establishing good practices in each sector per country.**

This should be core to the report as it allows to better assess possibilities for transferability

The participants discuss how the retirement of baby boomers is leading to a staff shortage, prompting companies to improve telework conditions to draw in younger employees who increasingly seek flexible remote work options. In Austria, this pressure in practice might even substitute for a right to telework.

*“Staff shortage is probably very pronounced in the IT sector, but there is also a staff shortage in the public sector. Because the baby boomer generation has now retired. That means we have an enormous staff shortage. And for young colleagues in particular, the option of teleworking is very important. This means that even the public sector, although there is no legal entitlement to telework, also explicitly states in its job advertisements that there is the possibility of teleworking.”* union representative, public sector, 347-358

Crucial for establishing sustainable and decent working conditions for telework appears to be a focus on a good work-life balance. During the discussion, the participants also referred to a 2023 change in the Portuguese labour code introducing the right to telework for workers with a child under the age of three and the right for 12 months of telework for a child under the age of eight. Naturally, this right to telework is only possible when the job profile allows for telework in the first place. This especially affects the public sector as there traditionally work many women. In the Portuguese public sector company, there is currently no limit to telework agreements with employees. The representative states that in her company the telework regulation builds on trust between employees and employers and currently, the agreements for telework are handed out without any time limits:

*“And now it means we can agree to work from home for six months or without a limit. [...] We at the company, want people to trust. We made the agreements on telework without limits. And there is a norm that if the company, so you can terminate that if you want to, but if nothing changes, if nobody says anything, then we can keep working from home.”* HR, public sector, 517-526

Nonetheless, particularly in the early days of the COVID pandemic the situation was challenging. It was unclear how to organise telework and for the employees was concerning if they were covered by accident insurance when working from home. In the case of this specific public company, such issues were early on clarified in written form, which helped a lot to build a trusting relationship between employees and employers. In addition, the company early on provided information concerning the new work organisation when working from home. For instance, in the beginning it was necessary to establish what working from home entails for the workers: Who is entitled to telework? What happens to workers with tasks



impossible to carry out from home? How to work from home? This information was provided through webinars:

“Since the onset of the pandemic, we have done a lot of educational sessions, webinars. And that might sound a bit ridiculous. Very basic webinars. ‘How do you start the work at home?’ ‘You shouldn’t work in your pyjamas’, ‘You need a place to rest’, ‘You can’t eat your lunch in front of your laptop,’ and so on. Today, this is almost like a joke. But these educational webinars really did exist, and they were very important back then, because we were all very lost.” HR, public sector, 552-559

Such informational material not only targeted the workforce shifting to telework, but also targeting for instance team management in telework. Starting in 2022, the Portuguese public company started to compensate workers for growing expenses when working from home, such as growing costs for power or heating, by paying a monthly subsidy. However, to overcome the rift between employees working from home and those working at the office, the company decided that all employees should receive the same pecuniary compensation.

Increasing mental health issues and stress connected to working from home, constant availability or technostress are discussed extensively for both sectors during the focus group. While in the public sector in Austria these health issues and stress was less of a problem, the other representatives highlighted the issue in their sectors or companies. Particularly in the IT sector, the works council argues, the collective agreement makes explicit the need to detail availability when working from home. He further argues that this is similar to a right to disconnect.

“In our collective agreement, there is a right to disconnect. This does not exist at a legal level. [...] It clearly states that with this home office invitation I have to specify my availability times. I am in the home office from 9 a.m. to 1 p.m., then I pick up the child, so from 1 p.m. to 2 p.m. is my lunch break and from 2 p.m. to 6 p.m. again.” IT company, works council, 404-412

Nevertheless, the participants argue that digitalisation in general and working from home in particular aggravates several health issues and can lead to higher stress levels for the employees. Concretely the participants discuss indicators for being online in programs such as MS Teams or WebEx. Furthermore, the IT-company’s works council argues during the focus group discussion that they debate in the company a lot about privacy when working from home. For instance, in this company they have agreements on using cameras during online meetings.

In the public sector in Austria directives regulate the labour relations between the employer (the state) and the employees and while there are no laws on a right to disconnect, there are directives that detail when and how long employees are available when working from home and detailed regulations on working time. Mental health in the Austrian public sector is not seen as a significant issue by the representative. She argues in the public sector there is less need to be (constantly) available and less pressure compared to the private IT sector.

In the public sector company in Portugal, physical and mental health are a growing issue that the company aims to tackle. The participants discuss increasing workplace pressures that employees as well as (middle) managers are facing, including isolation when working from home, stress, constant availability, and conditions resulting from bad ergonomics, as well as higher levels of cholesterol, diabetes, or adiposities. To respond to these newly emerging or at least aggravated health concerns, the company offers a host of health measures, such as free access to a health centre with general practitioners and specialists and psychologists. Furthermore, the company offers Yoga and meditation lessons for its employees. Besides improving employee health for the company this also acts to strengthen employee attachment to the company.

During the focus group discussion the participants refer multiple times to the concept of hot-desking, where companies assume less need for offices spaces due to increasing telework practices. In practice this implies that not all employees have office space available to save costs, such as energy or renting expenses. While this does not seem to be a common practice in the public sector, in the IT-sector some companies have a ratio between workers and available workplaces of 10 to 1.

## 5. Transferability

To establish a guideline of transferability of telework measures between sectors and countries is a complex task. As shown, in the focus group the participants discussed what rules and regulations in their own context were deemed as successful, but also what needs more attention and improvement in future negotiations between employers and employees. In the very specific setting within the Austrian social partnership telework arrangements need different prerequisites than are feasible in the Portuguese context. The Austrian representatives stress that establishing early collective agreements covering telework was

and still is paramount, even if the collective agreements show little evolution and many rules and regulations are covered by company agreements:

“It's been 30 years now and the collective agreement concerning telework is almost unchanged. Our industry has been talking about teleworking in all its facets for at least 30 years and the companies adhere to the collective agreements. [...] So, if there is a collective agreement and a law doesn't regulate anything else, then you must adhere to the collective agreement in Austria.” IT company, works council, 859-863

The works council representative consistently emphasizes the significance of idea exchange within the sector and with fellow worker and employer delegates to fully grasp the challenges faced by workers, as well as the wider business environment in regard to establishing rules for telework. This entails established connections with social partners and especially with the union, along with informal networking groups.

*“Talking to each other. What do the competitors offer, what can I do, what works very well, what do the employees tell me. [...] On the one hand, there is an exchange via conferences, on the other hand via personal networks, sometimes also via business clubs. Classic networks that are not institutionalised via conferences or anything else, but also via employers' associations, employees' associations and so on.” IT company, works council, 865-872*

The public sector has a duty of care for the health of its employees. Workplace health promotion projects organised by the social security system increasingly cover issues concerning telework. In the public sector the employer (ministries) and staff representatives are in regular contact with teleworkers to identify any health problems and to work on solutions. In this regard it is particularly important to train direct superiors about the health of employees in telework as in the public sector telework is still limited typically to two days a week.

For transferability in the Portuguese context the participants stress how important research and reports by the ILO and Eurofound on telework are to learn about best practice examples from other companies to see that telework is feasible and good models are transferable, which can lead to a better situation. Nonetheless, they are also aware of challenges in adapting models due to fundamentally different social relations making best practices not always transferable to other companies. Antonio Pacheco Ferreira stresses that conflicting positions on telework with the union make negotiating collective agreements difficult. This leads to situations where companies make individual agreements with employees and disregard negotiations with the union.

