

Hoeworking / teleworking. Atypical forms of employment: between usefulness and precariousness

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Abstract

The literature centered on the investigations into the implications of this activity sector, reveals that – in addition to the usual risks entailed by most atypical work arrangements, some of them even increased in the case of homeworkers and teleworkers – these workers are further exposed to the risk of social isolation, because they lack direct social contact with their peers, colleagues and organization members. The vulnerability of homeworkers is aggravated by labor legislation, as this category of workers face major difficulties in the complete, effective exercise of some rights, although the law acknowledges the equality in rights and treatment between the employees with standard work contracts, and the employees opting for flexible work opportunities. In most cases, the remuneration and social benefits granted to the latter, are lower than the payment and social benefits offered for the same type of work, to an employee working at the company's precincts.

Keywords: *homeworking, teleworking, atypical work arrangements, flexible work schedules.*

JEL Classification: K31

1. General considerations

The popularity² of telework in its various forms is indissolubly linked to the development of the economic and social realms over the last decades, to the new conditions generated by changing economic relationships on the labor market, and to the expansion of computer and information technology. The possible benefits involved by teleworking arrangements are not confined to the aspect of work flexibility – which is also a feature of all non-standard work arrangements – but comprise economical, social, technical-organizational aspects as well, thus affecting both parties involved in the juridical relationship established through an employment contract. The ability of modern organizations to provide homeworking arrangements

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² The greatest proportion of homeworkers (including teleworkers) is in the USA. According to International Data Corporation, the number of homeworkers is expected to rise from 96.2 million in 2015, to 105.4 million in 2020, amounting to about 72.3% of the overall labor force (Ahmad Timsal and Mustabsar Awais, *Flexibility or ethical dilemma: an overview of the work from home policies in modern organizations around the world*, in „Human Resource Management International Digest”, vol. 24, No. 7/2016, pp. 12-15. <http://www.emeraldinsight.com.kuleuven.ezproxy.kuleuven.be/doi/pdfplus/10.1108/HRMID-03-2016-0027>, accessed on 13.06. 2017).

is perceived as a strategy intending to create a competitive edge for the employer³. More exactly, in a continuously changing economic environment, with a labor market increasingly oriented towards flexible work opportunities allowing the employees to strike a better balance between professional and personal life, those employers who adopt flexible work policies such as homeworking and teleworking, become more attractive and are more likely to gain the loyalty and commitment from the part of the employees enjoying this privilege. Implementing the teleworking policies in a company may have a positive effect by increasing the employees' productivity, precisely due to the increased job satisfaction among them, as „the message conveyed to them is that the organization offers an opportunity to balance personal and professional priorities”⁴. However, the literature centered on the investigations into the implications of this activity sector, reveals that – in addition to the usual risks entailed by most atypical work arrangements, some of them even increased in the case of homeworkers and teleworkers – these workers are further exposed to the risk of social isolation, because they lack direct social contact with their peers, colleagues and organization members⁵. The vulnerability of homeworkers is aggravated by labor legislation, as this category of workers face major difficulties in the complete, effective exercise of some rights, although the law acknowledges the equality in rights and treatment between the employees with standard work contracts, and the employees opting for flexible work opportunities. In most cases, the remuneration and social benefits granted to the latter, are lower than the payment and social benefits offered for the same type of work, to an employee working at the company's precincts. As we shall see, important difficulties hindering the successful application of teleworking practices, are also entailed by the limited opportunities for promotion and for climbing the career ladder, in the case of this category of workers. The lack of direct contact with supervisors and decision-makers in company's top management, makes it difficult for the latter to undertake a correct assessment of the employee's performance, with a view to promoting the respective workers. It can be useful to examine the implications of teleworking arrangements in a broader context, since in Romania⁶, the homeworking

³ Ahmad Timsal and Mustabsar Awais, *op. cit.*, pp. 12-15.

⁴ Alex Moore *Telework is often wanted but not always granted*, <http://web.ebscohost.com/kuleuven.ezproxy.kuleuven.be/ehost/pdfviewer/pdfviewer?sid=beaab5c0-3e9c-45bf-b0e2-11a449f85a9d%40sessionmgr103&vid=1&hid=124>, accessed on 13.06.2017.

⁵ It has been found that the emergence of these new types of work agreements has generated „a new type of precariousness, known as relational precariousness”, caused by a limited number of personal relationships established by a person at the workplace. (See: Raluca Dimitriu *Dreptul muncii. Anxietăți ale prezentului*, p. 195, Rentrop & Straton, 2016).

⁶ For an analysis of homeworking contracts in domestic legislation, see I. Tef nescu, *Tratat teoretic și practic de drept al muncii*, 2014, Ed. Universul Juridic, pp. 326-328; Raluca Dimitriu, *Dreptul muncii. Anxietăți ale prezentului*, Rentrop & Straton, 2016, pp. 142-143; Raluca Dimitriu, *Munca în spațiul privat*, in „Revista Română de Dreptul Muncii”, no. 9/2013, pp. 23-33; Alexandru Iclea, *Tratat de dreptul muncii-Legislație. Doctrină. Jurisprudență*, Universul Juridic, 2016, pp. 381-384; O. Incă, *Contractul individual de muncă la domiciliu*, in „Dreptul” no. 8/2003, pp. 33-43; Ana Cioriciu Tef nescu, *Condițiile speciale privind încheierea contractului de muncă la domiciliu - elemente de drept comparat*, in „Revista Română de dreptul muncii”, no. 2/2008, pp. 23-51; Ana

phenomenon is less developed and less known in its significant details, and the individual teleworking contracts are not yet regulated by law⁷. We must note that, faced with this change in the work paradigm – by encouraging new types of work meant to ensure increased flexibility of employment relationships – Romanian organizations' attempt at embracing this current trend by providing their employees with the opportunity of homeworking, is tantamount to a plunge into the unknown, which may or may not reach its purpose. Therefore, the present paper will undertake an analysis of the greatest disadvantages entailed by the teleworking system – both from the standpoint of employers, and that of employees, aiming to identify as accurately as possible the true position of homework and telework between usefulness and precariousness.

2. Disadvantages from the standpoint of employees

2.1 Lower income

We must note that a number of the advantages gained by employers through teleworking, are actually translated into disadvantages for the employees. Thus, the fact that implementing the homeworking and teleworking practices is accompanied by a significant cut in the costs incumbent on companies, points to a number of onerous effects on their employees. In other words, it has been shown⁸ that the reduction in costs for energy consumption and office rental, which previously used to be paid by the employer, actually means that these costs are transferred to the employee, by relocating the workspace to their own homes. Moreover, these negative effects continue to be manifest in the legislative regulations in certain states. For instance, in the **United Kingdom**, overheads as well as holidays are rarely paid by employers to the homeworkers. Here, the most important aspect is that organizing work carried out at home essentially entails placing a portion of the private space owned by the employee, at the disposal of the employer – however, without involving the payment of any rent, or the existence of any legal obligation incumbent

Cioriciu tef nescu, *Condițiile speciale privind încheierea contractului de muncă la domiciliu - elemente de drept comparat*, in „Revista Român de dreptul muncii”, no. 3/2008, pp. 67-88; Ana tef nescu, *Munca la domiciliu și telemunca – drept intern și comparat*, Universul Juridic, 2011, pp. 13-176; Adrian- Claudiu Popoviciu, *Lucrătorul în dreptul european*, C.H Beck, 2014, pp. 300-307.

⁷ One step has already been taken as the Ministry of Labor has submitted to public debate the Bill for the regulation of teleworking, arguing that this form of organizing and carrying out work could have major positive implications, for both employers and employees. More exactly, „*the employer will have lower administrative costs with rent, overheads, fuel consumption, as well as the car fleet. As far as the employees are concerned, the advantages lie in eliminating the costs – in terms of time and money – involved by travelling to and from the employer's premises, and in their freedom to choose their working place and working hours, with a view to improving the life-work balance*”. (<https://legestart.ro/tele-munca-lege-speciala-pentru-salariatii-care-vor-lucra-din-afara-sediului-angajatorului/>, accesat în 1. 08. 2017).

⁸ See Fiona A.E McQuarrie, *Telecommuting: Who Really Benefits?*, p.82, in „Business Horizons”, November-December 1994, pp. 79-83.

on the employer. Usually, the current legislation systems that implement the homeworking and teleworking practices, do not address the possibility of any compensation from the employer's part, by offering the employee a share of the housing costs paid by the latter. In other words, due to these disadvantages, it is obvious that homeworking practices actually have a negative impact on the costs covered by employees, ultimately resulting in lower income for the latter⁹. *However, we consider that it is legally possible that the individual employment contract of a homemaker or the collective work agreement for the entire staff, should stipulate at least a minimum sum as compensation owed to this category of employees, especially as this would ensure superior rights for the workers.*

Doubtlessly, the situation of this category of workers implies lower protection standards, and increased level of vulnerability in their case. Moreover, it is worth noting that the specific position of an employee under the homeworking agreement can also be expressed by comparison with standard workers. As the above-mentioned expenses are fully transferred to the homeworkers, we find that they are also subject to discrimination, since their counterparts who carry out the same type of activity under standard employment contracts, do not incur such costs. Thus, the advantage of increased flexibility enjoyed by homeworkers, also entails a drawback, from this perspective. This is a fact, despite the explicit assertion of equality in rights and treatment between the two categories of employees, both internationally at European level, and in most of the individual member states. *Consequently, we deem it important that the homework contract should include provisions concerning not only the covering of actual costs involved by the production process and the end-product (that is, raw materials, and materials necessary for conducting the activity), but also the covering of operating costs at the worker's home (telephone, electricity, heating, etc).* An explicit mention in this sense, included in the individual employment contract, could have great practical importance, as the law is not clear about this. By virtue of the principle of contractual freedom, the employer and employee may decide by contract on the proportion and extent to which operating costs are to be covered by the employer or the employee, respectively; the reasonable amounts are left to the decision of the parties. In the context of domestic legislation, this hypothesis could be legitimate and in accordance with the stipulations of art. 110 paragraph (2) in the Labor Code, which declares that „collective and/or individual employment contracts may also stipulate other specific conditions for homeworking, in agreement with the legislation currently in effect”. We note that this freedom of the parties, allowing them to negotiate and outline other specific conditions by means of individual and/or collective work agreements, has two restrictions. On the one hand, the parties can only stipulate rights that are superior to those established by law in favor of the homemaker; on the other hand, their agreement must not contradict the provisions stipulated by the International Labour Organization Convention no. 177/1996 concerning homeworking¹⁰.

⁹ Fiona A.E McQuarrie, *op. cit.*, pp. 79-83.

¹⁰ Alexandru Iclea, *Codul muncii comentat și adnotat – cu legislație conexă și jurisprudență relevantă*, Universul Juridic, 2017, p. 285.

2.2 Lower remuneration

A complex issue, with important consequences concerning the negative effects of homeworking contracts on those who carry out this form of work, is the issue of remuneration. The juridical regime of homeworkers, regulating their payment, has certain particularities owed to the significant and characteristic fact that the employer's guidance and actual control on the homeworker's activity is difficult to achieve. This is why, in many legal systems, according to the stipulations currently in effect, the payment of homeworkers is calculated in relation to the results they obtain. In **Italy**, for instance, homeworkers are paid according to the conditions and at the rates established by collective employment contracts, and depending on the results of the work (the *piece rate system*)¹¹. In the absence of a collective employment contract, the law stipulates that this rate will be decided on, by a joint regional committee (made up of four representatives of the major unions, and four representatives of the employer's organization). If this committee fails to reach an agreement within the time interval stipulated by law, then the right to decide and set this rate is given by law to the Regional Labour Office, which takes into account the quality of the work done and the salaries paid by entrepreneurs to regular employees, or the salaries offered under collective work agreements for similar jobs¹². The specialized literature reveals¹³ that payment at piece rate, generally applicable to some particular industries, is the most appropriate way to control and motivate such workers. In many cases, however, homework associated to this type of remuneration can result in workers' exploitation, precisely due to the financial incentives, which depend on the amount of work and the results achieved¹⁴. Regarding this aspect, there are states that have implemented particular provisions on the issue of homeworkers' remuneration. For example, in **France**, according to L. 721-1 and the following, in the French Labour Code, the status of homeworkers is not defined by the collective work agreements, but by a decision of administrative authorities, issued by the prefect or the ministry for the respective professions; the decision establishes the wages (payment per hour) and provides a table indicating the necessary time for carrying out the work done by this category of employees¹⁵. It is crucially important that, for the jobs not covered by these decisions, the jurisprudence issued by courts becomes relevant and applicable. According to constantly issued jurisprudential decisions, the employees can decide on the number of hours they work, but cannot receive a salary lower than „the minimum wages (payment per hour) guaranteed by law” (obviously, multiplied by the number of

¹¹ Art. 8 in Act no. 877/1973 on homeworking.

¹² See Jean – Edoardo, Ales *The concept of Employee: The Position in Italy* , pp. 359-360, in „Restatement of Labour Law in Europe. The Concept of Employee”, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Ed. Hart Publishing, 2017, pp. 351-375.

¹³ Margrethe H. Olson, *Remote office work: changing work patterns in space and time*, p. 186, in *Reports and articles*, No. 3, Vol. 26, 1983, pp. 182-187.

¹⁴ Margrethe H. Olson, *op. cit.*, pp. 182-187.

¹⁵ Marc Vericel, *Calcul du salaire du travailleur a domicile*, in „Revue de droit du travail”, 2007, p. 594.

hours worked); this also applies in the case of homeworkers, if the administrative decision issued in this sense does not state which salary is applicable for the respective profession. These are the coordinates that describe the decision passed by the French Court of Cassation, on a request to determine the salary applicable to a telesales representative. The Court admitted the request made by the respective employee who claimed that the remuneration cannot be lower than the minimum wages (payment per hour) guaranteed by law – multiplied by the number of hours worked (*salaire minimum de croissance pour le nombre d'heures de travail*) and also, that the workers must be remunerated, regardless of the customer's paying for the order, or not¹⁶. Starting from this analysis, we may put forth the following point of view regarding the domestic situation. Thus, *de lege ferenda we deem it useful to include explicit stipulations, in the normative text of art. 110 in the Labor Code, stating that the homeworker cannot receive lower payment than the national gross minimum wages corresponding to the regular number of working hours*. Given the specific character of homeworking and the (generally vulnerable) position of those engaging in this type of activity, by providing normative stipulations to regulate this work option, further protection can be ensured for those integrated into the labor market through this flexible type of work.

2.3 Unequal opportunities for promotion and career advancement

The vulnerability of employees anchored in this employment system are not confined to the economic and financial aspects. Surveys carried out to investigate this type of activity have even reported a discriminating attitude of employers, with regard to career advancement opportunities and promotions granted to the employees who choose the alternative types of work, and favoring the employees who carry out the same type of activity within the organization's precincts. We may assert that this reality is strongly influenced by the lack of visibility of his category of staff, while visibility is still perceived as essential for obtaining a promotion within the company. It has been rightly noted¹⁷ that significant changes are necessary in the definition and perception of career, so that these should become more inclusive and reflective of the new lifestyles, which become increasingly oriented towards flexible work schedules allowing the employee to strike an optimal balance between personal and professional life. We must also note that, on the one hand, the disadvantage of limited opportunities for climbing the career ladder, faced by this category of workers,

¹⁶ According to this decision: „It is illegal to include a clause in the employment contract, by which the payment of homeworker depends on the customer's paying for the order ... because the homeworker must not be exposed to any risk from the part of the employer. He has the right to be paid, whether or not the customer has paid for the order”.

„If there is no stipulation about the remuneration per hour and the time necessary for the respective activity, in the statements included in the Labor Code with regard to homeworkers, then the latter – respectively the homeworker, is entitled to a remuneration at least equal to the amount resulting from the multiplication of legal minimum wages, by the number of hours worked”. (Marc Vericel, *op. cit.*, p. 594).

¹⁷ See Margrethe H. Olson, *op. cit.*, pp. 182-187.

originates among others in the relationship (most of the times a flawed one) between the organization and the homemaker, regarding the latter's training, education and control. Consequently, with regard to the opportunities for advancement and promotion within the company, work practices such as homeworking offer few opportunities and fail to guarantee the company's responsibility towards this category of its staff. On the other hand, the worker's physical and social isolation from the organization can generate this drawback, expressed in the unequal chances for promotion and professional advancement between those who carry out their activity under a standard work contract and on the employer's precincts, and those who work under atypical arrangements like the above-mentioned ones¹⁸. Certainly, a worker's interaction with peers and colleagues, as it occurs on the company's precincts, has an impact on the exchange of experience, communication, and personal development of the respective employee, all of which are significantly decreased in this case. The risk of physical isolation of the employee, with its societal consequences, is probably one of the most critical aspects subject to debate in the specialized literature, in relation to the telework system. In response to these challenges, some states have attempted to diminish the risk of social isolation, so strongly associated with this type of work, by regulating homeworkers' opportunities to maintain and develop social contacts with their employers and colleagues, through constant visits to the company's precincts. For instance, the law provisions implemented in the **Czech Republic** make it possible for employer and employee to include in the employment contract additional clauses concerning work outside the company's precincts, for instance declaring that the homemaker has to make regular visits to the employer's business place¹⁹. In **Luxembourg**, although teleworkers do not enjoy different treatment from other employees, certain special rules apply to this category of employees, concerning the implementation of teleworking within the company and the social contact to be maintained between teleworkers and the rest of the staff²⁰. In this context, we also note the example set by a number of multinational organizations in **Pakistan**, where they offer homeworking policies but require homeworkers to come to the employer's offices on a regular basis, at least once a week²¹. It has been also found that the negative impact on homeworkers' development and career advancement prospects, as a consequence of their isolation, are major concerns of these employees. From their point of view, a preferable homeworking arrangement is one that allows work at home only for a part of the working time, so that the individual also attends the employer's offices to work there

¹⁸ See Fiona A.E McQuarrie, *op. cit.*, pp. 79-83.

¹⁹ Petr H rka, *The concept of Employee: The Position in the Czech Republic*, p. 123, in „Restatement of Labour Law in Europe. The Concept of Employee”, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Hart Publishing, 2017, pp. 113-132.

²⁰ Jean – Luc Putz, *The concept of "Employee: The Position in Luxembourg*, p. 414, in „Restatement of Labour Law in Europe. The Concept of Employee, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Hart Publishing, 2017, pp. 405-433.

²¹ Ahmad Timsal and Mustabsar Awais, *op. cit.*, pp. 12-15.

for the remaining time²². One possible explanation lies in homeworkers' awareness of their low visibility at the company's offices, which has serious negative effects on their chances to assert themselves and to be promoted. In other words, if homeworking arrangements could be thus adjusted, then this might contribute significantly to an improvement of the situation entailed by homeworking. This fact cannot be ignored, and spending part of the week at the employer's place currently seems to be the best solution to alleviate homeworkers' problems and offer better chances to advance along the career path for those integrated into this category²³. Consequently, in the context of international and European regulations, respectively, which expressly adhere to the principle of equal treatment in the case of homeworkers – implicitly asserting the equality in matters of training and promotion opportunities for these employees – *de lege ferenda* we deem it useful to include an explicit provision in the internal Labor Code, stipulating that the employment contract should include clauses concerning homeworkers' professional training and development, which should not be inferior to those provided to standard employees. Admittedly, internal normative regulations of homeworking do assert this equality in treatment, by art. 110 in the Labor Code – in keeping with the international norms governing this type of work – but a stronger normative character attached to this aspect could have a significant impact on the actual implementation of regulations, by having them put into practice. Additional protection granted to this class of employees could complete an insufficient and ambiguous domestic normative framework. This goal is already pursued by other legal systems, such as the **Italian** one, for instance. More precisely, alongside the specific clauses that are mandatorily included in homeworking employment contracts (information on the working hours; the employer's obligation to supply the homeworkers with equipments and tools; the employer's obligation to cover all the costs generated by the work process), this legal system includes a separate category of norms that are also part of the mandatory content of the home employment contract – namely a set of provisions addressing the training and skills development for the employees engaged in this type of activity under homeworking arrangements²⁴.

²² The results of a survey conducted in Singapore revealed that most respondents (83%) embracing homeworking practices would prefer to work at home for 1-3 days a week, while maintaining their status of full-time employees within the organization; only 17% would prefer to work at home for 4-6 days a week. (Chee Sing Yap & Helen Tng, *Factors associated with attitudes towards telecommuting*, p. 232, in „Information & Management”, 19 (1990), pp. 227-235).

²³ Teleworking could be considered too, as it offers the possibility of dividing the working time between the conventional working place, and the telework location (the so-called *part-time teleworking*). See Anee Aguilera, Virginie Lethiais, Alain Rallet, Laurent Proulhac, *Home-based telework in France: characteristic, barriers and perspectives*, p. 4, in „Transportation Research”, Part A 92 (2016), pp. 1-11).

²⁴ Ivana Grgurev, *The concept of Employee: The Position in Croatia*, p. 66, in „Restatement of Labour Law in Europe. The Concept of Employee”, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Hart Publishing, 2017, pp. 59-83.

2.4 Limited access to certain rights and social benefits

In the spirit of the above remarks, the particular position of homeworkers is a special one from yet another perspective, namely their limited access to rights and social benefits. Generally, the legal systems allow certain derogations from the labor legislation to be applied to homeworkers' category, due to the peculiar character of this type of activity. For instance, in the **Czech Republic**, the stipulations included in the Labor Code concerning: the obstacles hindering work (illness or various social events); salaries; payment for overtime work; and payment for work carried out on holidays and days off, do not apply to those employees who do not work at the company's precincts, but develop independently their own work schedule²⁵. Similarly, the situation in **Greece**²⁶, regarding the regulations addressing homework, is significant. Although the labor legislation norms apply to homeworkers too, however in the case of persons living in small towns with a population under 6,000 inhabitants, these norms do not apply to regulate the working hours, remuneration, and the concluding of employment contracts. In **Russia**, employees engaged in teleworking programs can be dismissed not only for the reasons stated in the Labor Code, but also for further reasons stipulated in the employment contract. On the other hand, teleworkers can generally decide on their working hours and the vacation, if these are not stipulated in the employment contract²⁷. Limited access to certain rights, in the case of teleworkers, is also obvious in the legal system of **Slovakia**. For instance, in the case where personal problems hinder professional activity, teleworkers or homeworkers do not benefit from the Labor Code's juridical provisions imposing compensation payments from the part of the employer, except for the situation of a family member's death. Similarly, this category of employees is not entitled to payment for overtime work, to compensations for the work done on holidays/days off, or for night work; they are also not entitled to financial compensation for work in constrained working environments²⁸. In conclusion, the comparative examination reveals that the employees engaged in teleworking programs have a more vulnerable position than the employees working on the organization's precincts; their vulnerability is due to the very juridical regime which is different in the case of these two categories of workers. Unequal treatment to the detriment of homeworkers, manifest in various ways, is not actually eliminated just by virtue of the explicit declarations of the juridical systems, conceptually asserting the principle of equal rights and treatment granted to the various categories of

²⁵ Petr H rka, *op.cit.*, pp. 113-132.

²⁶ See Costas Papadimitriou, *The concept of Employee: The Position in Greece*, p. 280, in „Restatement of Labour Law in Europe. The Concept of Employee”, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Hart Publishing, 2017, pp. 275-288.

²⁷ Nikita Lyutov & Elena Gerasimova, *The concept of Employee: The Position in Russia*, p. 584, in „Restatement of Labour Law in Europe. The Concept of Employee”, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Hart Publishing, 2017, pp. 577-598.

²⁸ Robert Schronk, *The concept of Employee: The Position in Slovakia*, p. 629 - 630, in „Restatement of Labour Law in Europe. The Concept of Employee”, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Hart Publishing, 2017, pp. 619-639.

employees, regardless of the nature of their employment contracts. It is important to understand that, despite the significant degree of flexibility gained through homeworking and teleworking agreements, there are also major disadvantages that increase the precarious character of this type of work, precisely due to the vulnerabilities investigated above.

3. Disadvantages from the employer's standpoint

We note, however, that from the perspective of the possible disadvantages affecting employers in the situation of teleworking agreements, some studies approach the development of this type of activity from a different angle. Since work is conducted outside the direct supervision of managers, it has been argued that it is difficult to assess accurately the productivity of those who opt for homeworking arrangements²⁹. The collective mindset of the decision-makers in the top management, still fosters the notion that „those employees who conduct their activity away from the company's precincts, do not actually work”³⁰. This is caused by the fact that changes in the classic management culture are avoided, due to very deep-seated traditions associated with the employers' fear to lose control over the work and productivity of their employees. In their view, homeworking or teleworking arrangements are a compromise which may ultimately affect the quality and results of work³¹. This is just one of the arguments invoked by the critics of teleworking, and reveals just some of the difficulties faced by those implementing the homeworking policies. Moreover, organizing telework presupposes major changes in the methods of monitoring and supervising the activity performed in this form, and entails costs associated with the implementation of relevant technology – requisites which for some companies might be serious barriers preventing the development of homeworking and teleworking policies. Based on this considerations, a survey conducted in **France**³² has revealed that the teleworking practices are not affordable to just any company, but they depend directly on the businesses' ability to implement and employ telecommunication means, and cover the respective costs³³. Many have declared – that is, 88% of the respondent

²⁹ Regarding the aspects under discussion here, specialized literature has demonstrated that the cultural factor carries great weight in the dissemination of homeworking programs. The perception of some Pakistani organizations illustrates this point very clearly. In contrast with the Western developed cultures, which welcome with enthusiasm the implementation of such practices and thus reveal that employers are more interested in the outcome and results of work, rather than control, the managerial spirit of Pakistani organizations is based on the idea that „employees can be managed and controlled only if they are directly supervised”, which obviously limits acceptance of arrangements such as homeworking or teleworking among managers. (Ahmad Timsal and Mustabsar Awais, *op. cit.*, pp. 12-15).

³⁰ Ahmad Timsal and Mustabsar Awais, *op. cit.*, pp. 12-15.

³¹ Ahmad Timsal and Mustabsar Awais, *op. cit.*, pp. 12-15.

³² Anee Aguilera, Virginie Lethiais, Alain Rallet, Laurent Proulhac, *op. cit.*, pp. 1-11.

³³ If the study addresses particular types of activity, carried out under projects, then telecommunication is no longer a *sine-qua-non* requirement for teleworking, but rather a means which favors and allows monitoring and control of telework. (See Margrethe H. Olson, *op.cit.*, p. 186).

organizations – that the main obstacle hindering the implementation of teleworking arrangements, lies in the fact that the nature of work presupposes the presence of the respective employees at the workplace. This actually masks the need of organizational changes and adjustments which the implementation of telework practices would impose³⁴. In some legal systems such as that of **Finland**, the employer's right to supervise and direct work is an essential criterion on which any employment contract is based and according to which it is identified. Even in the case of homework or other teleworking practices, there have to exist methods by which the employer can direct and monitor the activity performed by employees. If such a monitoring system is missing, then the respective contract cannot be identified as an employment contract³⁵.

4. Conclusions

We can therefore assert that the literature investigating the management of homeworking and teleworking practices, is ambiguous – supplying arguments both in favor and against this type of work. The consequence of this juxtaposition of two opposite approaches is the lack of a convincing, compelling model of work organization, able to describe clearly the importance and benefits of implementing homeworking policies within companies, and to provide an accurate assessment of costs and benefits from the standpoints of both employers and employees. This is the conclusion one can derive, despite the fact that most research papers accept the diversity of flexible contractual arrangements as a change in the paradigm of employment relationships, emphasizing the need for a better balance between professional and personal life. As we have seen, the success of individual autonomy in the case of those employees who work outside the company's offices, entails the implementation of a corresponding mechanism to control telework, and of specific organizational procedures generating costs which are covered mainly by companies. Thus the usefulness of homeworking and teleworking as best practices becomes questionable, in the light of the company's net gains and profits – which means that an employment system whose implementation is costly, can generate employers' reluctance towards such programs. Certainly, the fact that teleworking practices are less widespread than the other forms of flexible work across the European Union's territory, is also due to the higher costs entailed by the implementation of this employment system – costs which usually have to be covered by the companies providing homeworking programs. Also, the legislative apparatus cannot ignore the great number of disadvantages faced by teleworkers, once this type of employment is implemented. From social isolation, to lower payment, limited access to rights and social benefits, and scarce opportunities for career advancement – all these negative effects render teleworkers more vulnerable than their counterparts working at the

³⁴ Anee Aguilera, Virginie Lethiais, Alain Rallet, Laurent Proulhac, *op. cit.*, pp. 1-11.

³⁵ Matleena Engblom, *The concept of Employee: The Position in Finland*, p. 185, in „Restatement of Labour Law in Europe. The Concept of Employee”, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Ed. Hart Publishing, 2017, pp. 171-196.

employer's workplace. In conclusion, stipulations that regulate homeworking and teleworking practices still need to be adjusted and improved, so that they may address and remedy these vulnerabilities challenging those who conclude this type of employment contracts.

Bibliography

- Aguilera, Anee; Lethiais, Virginie; Rallet, Alain; Proulhac, Laurent, *Home-based telework in France: characteristic, barriers and perspectives*, in „Transportation Research”, Part A 92 (2016).
- Ales, Jean – Edoardo, *The concept of "Employee: The Position in Italy*, in „Restatement of Labour Law in Europe. The Concept of Employee”, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Hart Publishing, 2017.
- Cioriciu tef nescu, Ana, *Condițiile speciale privind încheierea contractului de muncă la domiciliu - elemente de drept comparat*, in „Revista Român de dreptul muncii”, no. 2/2008.
- Cioriciu tef nescu, Ana, *Condițiile speciale privind încheierea contractului de muncă la domiciliu - elemente de drept comparat*, in „Revista Român de dreptul muncii”, no. 3/2008.
- Dimitriu, Raluca, *Dreptul muncii. Anxietăți ale prezentului*, Rentrop & Straton, 2016.
- Dimitriu, Raluca, *Munca în spațiul privat*, in „Revista Român de Dreptul Muncii”, no. 9/2013.
- Engblom, Matleena, *The concept of Employee: The Position in Finland*, in „Restatement of Labour Law in Europe. The Concept of Employee”, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Hart Publishing, 2017.
- Grgurev, Ivana, *The concept of Employee: The Position in Croatia*, in „Restatement of Labour Law in Europe. The Concept of Employee”, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Hart Publishing, 2017.
- H rka, Petr, *The concept of Employee: The Position in the Czech Republic*, in „Restatement of Labour Law in Europe. The Concept of Employee”, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Hart Publishing, 2017.
- Ljutov, Nikita & Gerasimova, Elena, *The concept of Employee: The Position in Russia*, in „Restatement of Labour Law in Europe. The Concept of Employee”, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Hart Publishing, 2017.
- McQuarrie, Fiona A.E, *Telecommuting: Who Really Benefits?*, in Business Horizons, November-December 1994.
- Olson, Margrethe H., *Remote office work: changing work patterns in space and time*, in „Reports and articles”, No. 3, Vol. 26, 1983.
- Papadimitriou, Costas, *The concept of Employee: The Position in Greece*, in „Restatement of Labour Law in Europe. The Concept of Employee”, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Hart Publishing, 2017.

- Popoviciu, Adrian-Claudiu, *Lucrătorul în dreptul european*, C.H Beck, 2014.
- Putz, Jean – Luc, *The concept of Employee: The Position in Luxembourg*, in „Restatement of Labour Law in Europe. The Concept of Employee”, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Hart Publishing, 2017.
- Schronk, Robert, *The concept of Employee: The Position in Slovakia*, in „Restatement of Labour Law in Europe. The Concept of Employee”, Vol. 1, Edited by Bernd Waas & Guus Heerma van Voss, Hart Publishing, 2017.
- Sing, Chee; Tng, Yap & Helen, *Factors associated with attitudes towards telecommuting*, in „Information & Management”, 19 (1990).
- tef nescu, Ana, *Munca la domiciliu și telemunca – drept intern și comparat*, Universul Juridic, 2011.
- tef nescu, I. T., *Tratat teoretic și practic de drept al muncii*, Universul Juridic, 2014.
- Timsal, Ahmad i Awais, Mustabsar, *Flexibility or ethical dilemma: an overview of the work from home policies in modern organizations around the world*, in „Human Resource Management International Digest”, vol. 24, No. 7/2016.
- iclea, Alexandru, *Codul muncii comentat și adnotat – cu legislație conexă și jurisprudență relevantă*, Universul Juridic, 2017.
- iclea, Alexandru, *Tratat de dreptul muncii-Legislație. Doctrină. Jurisprudență*, Universul Juridic, 2016.
- inca, O., *Contractul individual de muncă la domiciliu*, in „Dreptul” no. 8/2003.
- Vericel, Marc, *Calcul du salaire du travailleur a domicile*, in „Revue de droit du travail”, 2007.