

“MOBILEurope: Collective bargaining for mobile workers in Europe under the COVID19 – cases of frontier, seasonal and migrant workers”

Policy paper on frontier workers

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POLICY PAPER

1. Legislation

The issue of the legislative and social protection coverage of mobile workers, has only recently elevated in Greece. The general labor legislative is also applied for mobile workers, with no further arrangements for mobile and seasonal workers. In detail, the current legislative framework is as follows:

- Law 4332/2015: aiming to synchronize the Greek Law for immigrant workers according to the European Directives (in specific Directive 2014/36/EU). Seasonal work can be offered for the maximum duration of six months per annum. The specific Law increased the bureaucracy for working in Greece for non-E.U. nationals. The job postings are monitored and announced centrally per sector and per season. The work permits are issued by the Greek authorities and subsequently, the employers can search for non-E.U. workers.
- Legislative Content Act, A.D. 90/1.5.2020: aiming to exempt foreign seasonal workers from visa requirements.
- Law 4690/30.05.2020: aiming to extend work permits for six more months after the permit expiration date. In 2021, a digital visa was also implemented targeting mainly highly skilled workers.
- Law 4825/2021: aiming to further facilitate the employment of seasonal workers for a period of five years, based on employee needs. The Law also established fast-track procedures of employment for certain sectors such as the agricultural sector.
- National General Collective Agreements and Labour Law: they specify the minimum wage rate and working conditions (working hours/week, rest period, maternity leave, etc.) for all people working in Greece.

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2. Good Practices

Frontier working is accompanied by complex tax and social security legislation applied to both country parties, namely the country of work and the country of residence. The employment status of frontier workers thus, creates uncertainty and differential treatment of this specific category of employees. However, frontier working expands the opportunity for employees to recruit the appropriate candidates from a larger cross-national pool of potential employees and it also creates large economic benefits for all applied parties. In addition, during the COVID pandemic, teleworking in different country than the country of residence also increased substantially and since technological advancement facilitates intercountry employment, frontier teleworking is a form of employment that is expected to keep rising after the pandemic. Therefore, both the E.U. and the member countries acknowledge the labour complexities arising from frontier work and aim in reducing the discrepancies between working benefits of frontier and more traditional forms of employment. Such good practice examples are described below:



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- Belgium: the country attempted to improve the social insurance coverage of frontier teleworkers, following the COVID pandemic that increased teleworking in the country from employees that reside in other member countries. With legislative measures that were undertaken in 2020, the country allowed the social security benefits of frontier teleworking to remain unaltered, even under extensive teleworking schemes of employment that took place during the extensive lockdowns.
- Luxembourg: the country also undertook similar measures to ensure the social security status of frontier teleworkers. The authorities also cooperated with the national authorities of Belgium, Germany and France in 2020, among which there seems to be a large number of frontier workers employed in the country. The aim was to secure the social status coverage of frontier workers that were employed in increased teleworking time due to the repeated lockdowns.
- France: similar measures to ensure the continuity of social insurance coverage were also undertaken by France in order to not disrupt the working state of frontier workers, who increased teleworking from the country of residence, during the pandemic.
- Ireland: the country examined thoroughly the E.U. and the international legislative framework for frontier workers in order to harmonize, after Brexit, in order to provide the necessary guidelines for workers mainly working or residing in the U.K. A panel of experts from the Northern Irish Human Rights Commission examined the British legislative framework for the Irish employees working in the U.K. and while they argue that it is quite extensively complied to the E.U. framework, there are still shortcomings regarding the protection of frontier workers and their families under the U.K. Law. They also retain the majority of the rights U.K. frontier workers had when U.K. was part of the E.U. A point of concern that was risen by the panel is the fact that once frontier workers lose their frontier work status in the U.K., this condition is irreversible. They conclude that there is needed new negotiations and discussions between the U.K. and the E.U. in order to redefine the frontier work status and amend the national social security legislation, in order to facilitate the frontier employment in the U.K.

3. Policy Recommendations

The E.U. free movement and economic integration contributed significantly towards the expansion of frontier employment. The subsequent technological advancements and the recent health pandemic, also facilitated frontier teleworking with frontier job postings expanding in other than the traditional sectors of the economy (such as seasonal agricultural works) towards teleworking in high skilled technological positions. The frontier teleworking will be a long-lasting phenomenon, with greater economic benefits for the parties involved. While E.U. countries have addressed issues regarding the social security status of frontier workers during the pandemic, in order to ensure their equal treatment as more traditional types of employment, the relevant policy measures were undertaken for the period of the health crisis, since teleworking has expanded substantially during this period. However, teleworking and frontier work across the E.U. seems that is



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here to stay and the E.U. policy has to tackle several issues in order to promote work, social security and tax equality for frontier workers. Such measures should address:

- The social security complex issues that arise and can potentially lead to a disadvantage position for frontier workers. For example, if teleworking constitutes more than 25% of working time, the social security status change from the legislation of the country of the employment position to the legislation of the country of residence. Such dispersion in social insurance can alter the provision of benefits. In addition, such changes can halt the motive of employers to hire frontier workers, due to increased bureaucratic, administrative and economic costs.
- In continuation to the above, the E.U. Commission's regulation (article 16 of EC No. 883/2004) attempts to provide a more flexible approach towards the best interest of the frontier workers, by allowing them to continue to be subject to the existing social security scheme of the country-member of work. However, these recommendations are not legally binding.
- A legal cooperation of E.U. member states to ensure a homogeneous treatment and common labour principles for frontier workers in terms of social security and tax policy, can reduce administrative complications and increase job security and wellbeing for frontier workers, as well as to ensure a fair treatment for this specific working class. At the moment, certain legislative forms are restricted in bilateral treaties on cross-border frontier work between neighbouring E.U. countries.
- Under the same spirit, a cooperation among E.U. member states should enhance and secure the social security rights of the family members of the frontier workers, as well as the associated tax and family benefits, which also seems to be rather neglected by national policies.
- The definition of frontier workers should be updated to include all new forms of frontier teleworking that flourished during the pandemic and they are here to stay.

