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Luxembourg

Implementation of the decision on working time and hybrid working: no flexibility

Luxembourg, 13/04/2022

As Decision C(2022)1788 entered into force on 1 April 2022. The Decision provides for the adoption of Guidelines by DG HR (Article 2) and the establishment of a Joint Committee on Hybrid Working (Article 16).

Regrettably, neither the Guidelines nor the Joint Committee are yet available. Furthermore, DG HR also has not yet shared the Risk Analysis with regard to the implementation of the Decision as promised during the negotiations.

While basic elements intended to ensure the proper implementation of the Decision are not yet in place, **Union Syndicale Fédérale Luxembourg** is concerned that the Decision is not respected at the level of some Directorate Generals and Services.

In particular, we observe the following questionable approach chosen by some DG's and Services, to issue a formal message to all their Staff, informing them that the **default rule is a combination of at least 60% (3 days) in the office and up to 40% (2 days) of teleworking**. It is claimed that the approach is justified by the possibility of each Directorate General (or Head of Service) to define and specify how the hybrid working method is best adapted to the specific policy and team context. It should be also noted that other DG's and Services have not issued such message but do try and enforce a presence of more than 2 days a week at the office by requesting "informally" their line managers to do so. A undeniable proof of courage.

Union Syndicale Fédérale Luxembourg strongly objects to this interpretation of the Decision. While Director Generals (or Heads of Service) may instruct their line managers on how to exercise the discretion afforded to them by the Decision (Article 2), they cannot impose a limited scope of the Decision on the staff working in their Directorate General or Service.

The Decision grants staff members the possibility to request more than 20% and up to 60% of telework (Article 9 paragraph 7). In some DG's and Services, it appears that staff members are prohibited by the Director General to request more than 40% of telework. The Decision also establishes that line managers have to provide **duly justified reasons** when rejecting a request for telework (again Article 9 paragraph 7). In some DG's and Services, the Director General (or Head of Service) appears to have removed that obligation from its line managers for requests between 40% and 60% of teleworking.

It should be noted that the Decision provides also for the possibility of more than 60% of telework under specific circumstances (Article 9 paragraphs 9 and 10). In some DG's and services, the determination of a maximum of 40% of teleworking for all staff also removes these options for its staff.

The determination of a fixed level of maximum telework for all the staff of a Directorate General or Service is also problematic because the Decision aims at promoting a modern, digital and flexible working environment, to protect staff's health and wellbeing, enhance efficiency and improve work-life balance (recital 1). Furthermore, the Decision clearly states that it should be based on trust. These objectives require an individual approach taking into consideration the specific needs of individual staff members, such as psycho-social risks, balancing professional and private lives, social isolation, professional needs such as welcoming newcomers, knowledge transmission, level of teamwork, share of tasks requiring physical presence and specific needs of staff with disabilities (recitals 9-11 and 15).

Therefore, a **fixed common level for the entirety of the staff of a Directorate General or Service cannot be an appropriate approach** to respond to individual requests for specific levels of telework.

Union Syndicale Fédérale Luxembourg asks DG's and Services to interpret correctly the Decision by introducing the necessary flexibility and by enhancing the development of a trust based culture which are at the basis of the Decision

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