

# Homeworkers under Slovak Law – Pros and Cons

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**Today, many employees, especially in IT and consultancy services, request a partial or total homeworking regime as part of their working conditions or in certain periods of their life. Even though the law has enabled such regime for quite a long time, the practical consequences and related legal implications of certain aspects compared to “normal workers” are still not quite clear. Let’s take a look at the pros and cons of the homeworker’s regime under Slovak law.**

According to Section 52 (1) of the Labor Code, employment of an employee who carries out work for the employer (under the employment contract conditions) at home or in a different agreed place during working time, which the employee schedules himself or herself, shall be governed by the Labor Code, subject to some derogations precisely specified in the Labor Code.

These derogations relate to provisions concerning the distribution of the designated weekly working time, uninterrupted daily rest and uninterrupted rest in the week and downtimes. In cases of major personal impediment at work, such an employee shall not be entitled to wage compensation, except in the case of a death of a family member. Furthermore, such an employee shall not be entitled to a wage for overtime work, a preferential wage rate for working on a public holiday, a preferential wage rate for night work or wage compensation for working under difficult conditions, unless the employee agrees with the employer otherwise.

The employer shall take measures to prevent the employee who carries out work at home from becoming isolated from other employees and shall enable the employee to meet other employees. At the same time, the employee’s working conditions during work at home must not put the employee in a disadvantaged position compared to a

comparable employee in the employer’s workplace.

On the other hand, what is not classified as homeworking is defined in Section 52 (5) of the Labor Code, which states that **“Work carried out occasionally or under extraordinary circumstances by an employee at home or at a place other than the normal place of work with the employer’s consent or under an agreement with the employer shall not be considered as work at home insofar as the type of work carried out by the employer under the employment contract allows for such practice.”**

All derogations from the standard terms and conditions compared to “normal employees” seem to be fair enough, taking into account that it is the employee who shall be in charge of organizing his/her working time. Flexibility, the free distribution of working time and a friendly home environment for the employee are the main advantages of this regime. Not having to travel to work and back is another of its benefits.

On the other hand, there are at least two disadvantages to homeworking, both of which relate to the fact that the employer is not able to physically supervise the employee. The first issue is linked to the employees’ obligation for confidentiality. This can be partially covered by the right of the employer to monitor the behavior of the employee (under Section 13,

Subsection 4 of the Labor Code) even though, in the case of homeworkers, the possibilities are restricted due to the specific nature of the place where the work is being performed.

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The second disadvantage relates to the fact that the regime of homeworkers is not “linked” with the employer’s overall responsibility for the health and safety of the workplace, as in these cases the place of work is the employee’s house/flat. The Slovak Act on Health and Safety at Work does not contain any specific provisions related to homeworkers and, therefore, the obligations of the employer with respect to “normal” employees shall also apply to homeworkers (Section 6 et seq. of the Act No. 124/2006 Coll.

on Health and Safety at Work). This is neither fair, nor practical, mainly because for the employer to enter the property of the employee, the conditions of Article 21 (1) of the Slovak Constitution should be fulfilled: **“The home shall be inviolable. Entrance without consent of the person residing therein is not permitted.”** Therefore, once the employee refuses to allow the employer to inspect their home, the employer is unable to do so.

For instance, in the UK, employers are required to protect the health, safety and welfare of homeworkers who are employees “so far as is reasonably practicable.” They should carry out a risk assessment of the work activities to be carried out and take appropriate measures to reduce any associated risks. In practice, most homeworkers carry out low-risk, office-type work and therefore the risks are likely to be low.

It is clear from the above that the risk of working from home (especially in breaching the confidentiality duty and health and safety at work) cannot be minimized to zero. It may, however, be mitigated. In a practical way, it is therefore necessary to establish an initial inspection of the property before the homeworker starts to work from home, as well as regular checks during the homeworking at least on a quarterly basis. Some employers may also think about including the homeworker’s “place of work” in their usual insurance policy. A slight change of the legislation in this respect could help employers to overcome the disadvantages mentioned above and may also be beneficial for the employees.