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## **WORKING OUTSIDE THE EMPLOYER'S PREMISES Legal Regime and Organizational Challenges During and After the Pandemic of the Infectious Disease Covid-19\*\***

**ABSTRACT:** The outbreak of the epidemic of the infectious disease Covid-19 has resulted in greater relevance for working outside an employer's premises all around the world. As, until then, this way of organizing work was not so frequent, due to the cautious attitude of employers and employees towards it, the regulation of this issue was not given adequate attention at the domestic and international levels. In this paper, the author will try to answer the question of whether the attitudes of employees and employers towards this manner of organizing work have changed after the emergence of extraordinary epidemiological circumstances and whether, as a result, it will become more frequent in the future. In addition, the author will try to determine whether work outside the employer's premises is adequately regulated in the Republic of Serbia, as well as whether and which issues need to be more comprehensively regulated in light of its increased importance. To obtain answers to the above-mentioned questions, the author conducted a survey with employees

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\*\* The paper was received on November 29, 2022, the revised version was delivered on January 18, 2023, and it was accepted for publishing on February 1, 2023.

The translation of the original article into English is provided by the *Glasnik of the Bar Association of Vojvodina*

who, due to the introduction of the state of emergency in the Republic of Serbia, began to work outside the employer's premises. The stated results will be evaluated in light of the results of surveys conducted at the level of the European Union, while the regulations regarding this way of organizing work will be considered via an analysis of laws and by-laws that regulate this issue in the Republic of Serbia.

**Keywords:** work outside the employer's premises, infectious disease Covid-19, workplace, work from home, remote work

## INTRODUCTION

Work outside the employer's premises experienced an expansion due to the outbreak of the infectious disease *Covid-19* because it was identified as one of the few ways of reconciling economic stability and preserving public health, due to the introduction of measures to suppress the disease that occurred in most parts of the world. The attitudes of employees and employers towards this way of organizing work were mostly negative until the emergence of extraordinary epidemiological circumstances, which was one of the main reasons why it was not frequent in the past, despite the advantages it offered in the context of the increasing development of information technologies.

In this paper, the author will consider the specifics of work outside the employer's premises and try to answer the question of whether these specifics are adequately taken into account when arranging this way of organizing work in the Republic of Serbia. The second, and at the same time, the key question that the paper aims to answer, relates to the attitude of those employees and employers who, due to the pandemic of the infectious disease *Covid-19*, started working outside the employer's premises, towards this way of organizing work. The author will try to give a general answer to the question of whether the attitudes of employees and employers have changed in relation to the period that preceded the emergence of these extraordinary health circumstances.

To get an answer to the previous question, the author of the paper conducted an internet survey with 40 respondents – employees who started working outside the employer's premises due to the pandemic of the infectious disease *Covid-19*. Since in the Republic of Serbia, until the date of writing this paper, no comprehensive survey was conducted that would deal with the topic of the attitudes of employees and employers towards this way of organizing work, the results obtained will be evaluated in accordance with the results of similar surveys conducted at the level of the European Union, due to the

similarity of legal systems and the existence of appropriate research conducted within these frameworks. Given that the author was unable to conduct a survey with the second observed category – employers, due to less willingness by employers to cooperate and limited time and resources for research, this aspect will be observed exclusively through content analysis, namely the results of surveys conducted with employers in the territory of the European Union.

The paper is divided into five segments. To be able to provide adequate answers to the questions posed, and to adequately explain the results of the conducted survey, the first two segments deal with the concept of working outside the employer's premises and its development. The third segment includes an analysis of the specifics of work outside the employer's premises and an analysis of the regulation of this way of organizing work in the Republic of Serbia, on the basis of which the author will try to indicate whether and which issues need to be more adequately regulated in our country. In the fourth segment, the results of the conducted survey are presented and analyzed together with the results of surveys conducted with employees and employers at the level of the European Union, to present concluding considerations at the end of the paper.

## **THE DEVELOPMENT OF THE NOTION OF WORK OUTSIDE THE EMPLOYER'S PREMISES**

From the earliest periods of the development of human society, man ensured the satisfaction of existential needs for himself and his family through work. Until the last century, work was done primarily within family households, whether it was production for one's own needs or work for an employer to earn a living.<sup>1</sup> However, due to the process of industrialization, this way of performing work began to suddenly lose its relevance and it was almost completely replaced by work at the employer's premises.<sup>2</sup> Thus, in terms of employment in the modern sense of the word, working at the employer's premises has become a standard way of organizing work.<sup>3</sup>

The development of information technologies in the second half of the last century led to a greater possibility of working outside the employer's

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<sup>1</sup> International Labour Organization. (2020). *Working from Home: Estimating the worldwide potential*. Available at: [https://www.ilo.org/global/topics/non-standard-employment/publications/WCMS\\_743447/lang--en/index.htm](https://www.ilo.org/global/topics/non-standard-employment/publications/WCMS_743447/lang--en/index.htm)

<sup>2</sup> *Ibid.*

<sup>3</sup> Kovačević, Lj. (2013). *Pravna subordinacija u radnom odnosu i njene granice*. Belgrade: Faculty of Law, University of Belgrade, 315.

premises, by using equipment with a screen.<sup>4</sup> However, although when the notion first started developing it was expected that “at some point in the future all employees will work outside the employer’s premises,”<sup>5</sup> the abandonment of the standard way of organizing work was very slow: the results of research by the International Labor Organization show that before the outbreak of the infectious disease *Covid-19*, only 2.9% of employees at the global level performed work outside the employer’s premises.<sup>6</sup> This situation is a consequence of the stigma that existed on the part of employers and employees towards performing work outside the employer’s premises,<sup>7</sup> as a result of which the motivation for introducing this way of work organization was absent, despite the advantages associated with it.

The main reason for the negative attitude of employees towards working outside the employer’s premises was the fear that through this way of performing work, due to isolation from other employees and the employer, they would be faced with a greater risk of discrimination and exploitation compared to those employees who perform work in the usual way.<sup>8</sup> For a long time, employers feared that, by introducing this way of work organization, superiors would lose the level of supervisory authority they enjoyed over employees who were physically present during work and whose work they could directly monitor and supervise, which could result in a decreased volume and quality of the work performed. In addition, there was a fear that this way of doing work would be accompanied by an increase in costs associated with providing work equipment<sup>9</sup> and other adequate conditions necessary for performing the given work.

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<sup>4</sup> Kovačević, Lj. (2009). Rad na daljinu – pravni aspekti. *Collection of papers from the Counseling of Lawyers – Twelfth Zlatibor Legal Days*, 1–3. October 2009, 12.

<sup>5</sup> Eurofound and the International Labour Office. (2017). *Working anytime, anywhere: The effects on the world of work*. Geneva: Publications Office of the European Union and the International Labour Office, 3.

<sup>6</sup> International Labour Organization. (2020). *Working from Home: Estimating the worldwide potential*. Available at: [https://www.ilo.org/global/topics/non-standard-employment/publications/WCMS\\_743447/lang--en/index.htm](https://www.ilo.org/global/topics/non-standard-employment/publications/WCMS_743447/lang--en/index.htm). It should be added that the report itself additionally clarified that the stated percentage refers to persons who, within the framework of the employment relationship, performed their work exclusively or predominantly outside the employer’s premises, while the percentage of those who performed their work in this way, if the self-employed were also taken into account, totaled 7.9%.

<sup>7</sup> Criscuolo, C., Gal, P., Leidecker, L., Losma, F., Nicoletti, G. (2021). *The role of telework for productivity during and post Covid-19: results from an OECD survey among managers and workers*. Paris: OECD Publishing, 5.

<sup>8</sup> Kovačević, Lj. (2013). *Pravna subordinacija u radnom odnosu i njene granice*. Belgrade: Faculty of Law, University of Belgrade, 323.

<sup>9</sup> Messenger, J. C. (2019). *Telework in 21st century: An Evolutionary Perspective*. Cheltenham: Edward Elgar Publishing, 40.

Work outside the employer's premises experienced its true expansion only with the outbreak of the pandemic of the infectious disease *Covid-19* and measures to prevent its spread in almost all countries of the world. With the introduction of these measures, especially those that included a ban on movement during the state of emergency, employees couldn't work at the employer's premises.

Working outside the employer's premises was identified as a way of reconciling economic activity and public health by state authorities and international organizations, which after the outbreak of the pandemic introduced recommendations to employers with the aim of encouraging the introduction of this way of organizing work.<sup>10</sup> The International Labor Organization, as the highest international authority in the field of labor law, issued a document in May 2020 in which it pointed out to its members the advantages of non-standard ways of organizing work, such as remote work, as a mechanism for maintaining business activities while preserving the health of employees.<sup>11</sup>

In the mentioned circumstances, most employers, to maintain the productivity of business continuity, were forced to consider conducting work outside their premises.<sup>12</sup> This led to a huge percentage of employees beginning to work in this way, while we witnessed that, for many reasons, this way of organizing work has retained great relevance to this day despite the end of the extraordinary health circumstances that led to its introduction.

In accordance with the modest importance it enjoyed before the outbreak of the infectious disease *Covid-19*, the regulation of work outside the employer's premises during the 20th and 21st centuries was not given enough attention in sources related to labor law of both Serbian and international origins and many disputable issues remained at the level of theoretical considerations. Also, research on the attitudes of employees and employers towards this way of organizing work, as well as the potential for its development in the future, remained sporadic and inconsistent.<sup>13</sup> This situation was noticed only

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<sup>10</sup> Organisation for Economic Co-operation and Development. (2021). *Teleworking in the COVID-19 Pandemic: Trends and Prospects*. Available at: [https://read.oecd-ilibrary.org/view/?ref=1108\\_1108540-p249kho0iu&title=Teleworking-in-the-COVID-19-pandemic-Trends-and-prospects](https://read.oecd-ilibrary.org/view/?ref=1108_1108540-p249kho0iu&title=Teleworking-in-the-COVID-19-pandemic-Trends-and-prospects)

<sup>11</sup> International Labour Organization. (2020). *A policy framework for tackling the economic and social impact of the COVID-19 crisis*. Available at: [https://www.ilo.org/global/topics/coronavirus/impacts-and-responses/WCMS\\_745337/lang--en/index.htm](https://www.ilo.org/global/topics/coronavirus/impacts-and-responses/WCMS_745337/lang--en/index.htm)

<sup>12</sup> *Ibid.* "With the Covid-19 pandemic, the percentage of workers who have started to telecommute has grown tremendously, as companies have taken steps to make things easier in an effort to keep their businesses afloat."

<sup>13</sup> Nakrošienė, A., Bučiūnienė, I., Goštautaitė, B. (2019). *Working from home: characteristics and outcomes of telework*. Available at: [https://www.researchgate.net/publication/330325371\\_Working\\_from\\_home\\_characteristics\\_and\\_outcomes\\_of\\_telework](https://www.researchgate.net/publication/330325371_Working_from_home_characteristics_and_outcomes_of_telework)

when working outside the employer's premises became more relevant and the center of attention of legislators and the public, which happened practically overnight. Because of this, many countries have started comprehensive reforms of this way of organizing work in the recent period.<sup>14</sup>

## THE CONCEPT OF WORKING OUTSIDE THE EMPLOYER'S PREMISES

Work outside the employer's premises occurs as work at home and as remote work.<sup>15</sup> There is no generally accepted definition of working at home, while a widely accepted definition of remote work exists only at the level of the European Union. This fact is a consequence of the mentioned low prevalence of these ways of organizing work before the outbreak of the pandemic of the infectious disease *Covid-19*.

In 1996, the International Labor Organization (ILO) adopted a special Convention no. 177 on work at home (as well as Recommendation No. 184), which is characterized by a modest number of ratifications.<sup>16</sup> According to the convention, working at home means the employee performs work: a) in their own home or other premises of their choice, but not at the employer's premises, b) for remuneration and c) that results in a product or service specified by the employer, regardless of who provides the equipment, materials or other means used in the process of making the product or service.<sup>17</sup>

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<sup>14</sup> In the research conducted in 2021, it was determined that by March of that year, 5 member states of the European Union (Italy, Luxembourg, Latvia, Slovakia, and Spain) had already adopted legal changes concerning the regulation of work outside the employer's premises, while a significant number member states started to revise legal solutions (Austria, Belgium, Germany, Portugal, and others). According to: Sanz de Miguel, P., Caprile, M., Arasanz, J. (2021). *Regulating telework in a post-COVID-19 Europe*. Bilbao: European Agency for Safety and Health at Work, 17.

<sup>15</sup> Lubarda, B. (2020). *Radno pravo – rasprava o dostojanstvu na radu i socijalnom dijalogu*. Belgrade: Faculty of Law, University of Belgrade, 358.

<sup>16</sup> International Labour Organization, *Home Work Convention (No. 177)*, Geneva, 1996. List of ratifications available at: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312322:NO](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312322:NO). The Convention has been ratified by only 13 countries as of the writing of this paper. However, it is interesting to point out that in 2021 and 2022, as a result of new circumstances, there were new ratifications, which had not happened since 2012 - the convention was ratified by Slovenia on April 14, 2021, and Antigua and Barbuda on July 28, 2021, as well as the Kingdom of Spain on May 25, 2022, in which the Convention entered into force on May 25, 2023. The Republic of Serbia has not ratified the mentioned convention.

<sup>17</sup> International Labour Organization, *Home Work Convention (No. 177)*, Geneva, 1996.

The scope of this definition of work at home was the basis of the dispute, bearing in mind the emergence of a new way of organizing work that arose at the end of the last century as a result of technical innovations and the development of information technologies, i.e. remote work.<sup>18</sup> Thus, on the one hand, the opinion was expressed that the concept of working at home as defined in this way also includes remote work,<sup>19</sup> and that the rules of Convention no. 177 have to apply to it as well.<sup>20</sup> In contrast, the opinion was expressed that, although working at home and remote work have certain common characteristics, there is still a clear line of distinction between these two forms of work, which is reflected in the fact that remote work is characterized by an employee and the employer being connected by the means of electronic solutions, while in the case of working at home, this doesn't have to be so.<sup>21</sup> In the author's opinion, the first position is more acceptable, since the definition of work at home in no way excludes work that is performed by using electronic solutions, and it also includes work that is performed on premises other than the employer's premises, and not only at the employee's home, so the author believes that remote work is not excluded from this definition. This position was confirmed by the ILO: in a document published in 2021, it is stated that remote work is clearly covered by the definition of work at home from the mentioned convention.<sup>22</sup> In this document, it is explained that work at home includes: a) work at home that is performed to produce goods, b) remote work that is performed with the help of information and communication technologies (ICT), as well as c) work that is performed via digital platforms.

Despite the above, bearing in mind the level of development of information technologies at the time of the adoption of the said convention, it is clear that this convention does not recognize or regulate the specifics of

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<sup>18</sup> Eurofound and the International Labour Office. (2017). *Working anytime, anywhere: The effects on the world of work*. Geneva: Publications Office of the European Union and the International Labour Office, 3: "Remote work has been around since the 1970s when it originated in the information industry in the US state of California.". Kovačević, Lj. (2013). *Pravna subordinacija u radnom odnosu i njene granice*. Belgrade: Faculty of Law, University of Belgrade, 319.

<sup>19</sup> Lamond, D. (1997). *Defining telework: what is it exactly?* Available at: [https://www.academia.edu/20588605/Defining\\_Telework\\_What\\_is\\_it\\_Exactly](https://www.academia.edu/20588605/Defining_Telework_What_is_it_Exactly)

<sup>20</sup> International Labour Organization. (1997). *Report of the Symposium on Multimedia Convergence*. Available at: [https://labordoc.ilo.org/discovery/fulldisplay/alma993258743402676/41ILO\\_INST:41ILO\\_V2](https://labordoc.ilo.org/discovery/fulldisplay/alma993258743402676/41ILO_INST:41ILO_V2). On this occasion, the representative of France, Dominique Schalchl, expressed the view that remote work should be discussed within the framework set by Convention no. 177, in which remote work is specifically mentioned as one of the "post-industrial" forms of work at home.

<sup>21</sup> *Ibid.*

<sup>22</sup> International Labour Organization. (2021). *Working from home: From invisibility to decent work*. Geneva: International Labour Organisation, 18.







to work that is performed with the use of modern technologies. It is debatable how this definition can be reconciled with the division of labor outside the employer's premises found in the Labor Law because it is not clear what would be considered remote work if this definition were accepted. It is clear that this definition of the concept of working from home is unsustainable because it excludes from its scope work performed without the use of information technologies (which is characteristic of working from home), as well as because it defines working from home in a way which is traditionally defined as remote work in international law, and in that sense leaves open the problem of defining remote work in Serbian law.

### **SPECIFICITIES OF WORK OUTSIDE THE EMPLOYER'S PREMISES AND ITS REGULATION IN THE REPUBLIC OF SERBIA**

Although throughout most of history, there have been disagreements regarding the question of whether working at home, due to the lower intensity of subordination of the employee and less possibility of work control by the employer,<sup>27</sup> constitutes an employment relationship or not, in Serbian law, as in most European countries, the relationship between employers and employees who perform work in this way, is considered an employment relationship, and working at home is only a special way of organizing work, that is, a way of performing work within that employment relationship.<sup>28</sup> Remote work, in terms of the definition contained in the Framework Agreement on remote work, is also a specific way of organizing work, given that this definition refers to work performed within the framework of an employment relationship.<sup>29</sup>

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<sup>27</sup> Kovačević, Lj. (2013). *Pravna subordinacija u radnom odnosu i njene granice*. Belgrade: Faculty of Law, University of Belgrade, 314–317.

<sup>28</sup> Kovačević, Lj. (2009). Rad na daljinu – pravni aspekti. *Collection of papers from the Counseling of Lawyers – Twelfth Zlatibor Legal Days*, 1–3 October 2009, 3. B. Lubarda believes the opposite: “The worker is not in a legally subordinate position as an employee, nor does he enjoy such a degree of economic independence that would qualify him as an independent worker (self-employed person), so it is considered that the worker at home has the status of a similar employee.” in: Lubarda, B. (2020). *Radno pravo – rasp-rava o dostojanstvu na radu i socijalnom dijalogu*. Belgrade: Faculty of Law, University of Belgrade, 358.

<sup>29</sup> UNICE/UEAPME and CEEP, *Framework agreement on telework concluded by UNICE/UEAPME and CEEP*, Brussels, 2002.

Given the above, it is clear that the employment relationship that is manifested through the performance of work outside the employer's premises, whether it is work at home or remote work, must be characterized by the same features that otherwise characterize the employment relationship in a certain legal system.

Thus, the feature of voluntariness, which is indispensable in an employment relationship, must also exist in terms of contracting and performing work outside the employer's premises. The employee must agree to perform work in this way, not only at the time of establishing the employment relationship but also later, during its duration. In Serbian law, an employment relationship that involves performing work outside the employer's premises is established by concluding an employment contract, in the same way as an employment relationship that is established for the purpose of performing work on the employer's premises. Also, if the employer or the employee wants to change the contracted way of organization of work during the duration of the employment relationship so that in the future the work is performed outside the employer's premises (or vice versa), they will have to conclude an annex to the employment contract.

In Serbian Labor Law, there is no precise answer to the question of whether the employee's refusal to sign the annex to the employment contract, which concerns the transition to performing work outside the employer's premises, is a justified reason for dismissal. In this case, is it about the offer of an annex "for transfer to another place of work with the same employer", the refusal of which would constitute grounds for the termination of the employment contract, or not? According to one understanding presented in the theory, this is not about moving the employee to another place of work, but about the offer of an annex "in other cases established by law, general act, and employment contract", the refusal of which cannot entail the termination of the employment contract.<sup>30</sup> The author of this paper agrees with the stated position, especially because this way of thinking is in accordance with the Framework Agreement on remote work, which guarantees that the refusal to sign such an annex to the employment contract cannot be a reason for termination of the employment relationship by the employer.<sup>31</sup> Nevertheless, regardless of the positions expressed in theory on this issue and the solutions adopted in international law, it is necessary, for the purpose of legal certainty, to clarify this issue by the domestic legislative body in the near future.

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<sup>30</sup> Gligorić, S. (2021). Pravni režim rada od kuće u domaćem i međunarodnom pravu. *Strani pravni život*, 65 (3), 484.

<sup>31</sup> UNICE/UEAPME and CEEP, *Framework agreement on telework concluded by UNICE/UEAPME and CEEP*, Brussels, 2002.

In Serbian law, an employment contract or an annex to an employment contract that contracts the performance of work outside the employer's premises must contain, in addition to the provisions related to each employment contract, special elements prescribed by the provisions of the Labor Law.

Considering the specificity of work organization, the employer must regulate the issue of the equipment that the employee will use to perform the work. As a rule, this equipment will be provided by the employer, but, if the equipment is provided by the employee, the employer must provide reimbursement for the use of this equipment.<sup>32</sup> The issue of compensation by the employer must also be regulated in terms of other costs associated with the performance of work – costs of electricity, telephone line, and others, depending on the specific circumstances and specifics of the job. Unfortunately, domestic laws and by-laws do not contain elements for determining the amount of this compensation, nor any possible minimum amounts that the employer is obliged to pay depending on the type of expenses, which opens the door to abuses by employers, so it is necessary to regulate this issue in detail as soon as possible.

An employee who performs work outside the employer's premises must be guaranteed the same level of rights that the employer provides to other employees – for example, the basic salary for the work of an employee who performs his work tasks in this way must not be contracted in an amount lower than the salary that is contracted to employees who work on the same jobs at the employer's premises, provisions on overtime and night work must be applied to all employees, the right to maternity leave and leave from work for child care must be provided to all employees under equal conditions, etc.

Especially delicate issues related to guaranteeing the rights of these persons arise in terms of safety and health at work, as well as in terms of reconciling the employer's right to supervise the employee's work, on the one hand, and the right to privacy and inviolability of the employee's home, on the other.

The Law on Safety and Health at Work of the Republic of Serbia does not contain special provisions regarding the protection of safety and health at work of employees who perform their work outside the employer's premises, and the general rules of this law that apply to all employees are applied to them. This indicates that the domestic legislator did not take into account the peculiarities of working outside the employer's premises in the part that concerns the effective protection of health and safety at work for this category of employees, and simply applying general rules to these employees is not enough to assure the effective protection of health and safety of this category of employees.

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<sup>32</sup> Kovačević, Lj. (2009). Rad na daljinu – pravni aspekti. *Collection of papers from the Counseling of Lawyers – Twelfth Zlatibor Legal Days*, 1–3 October, 2009, 4.

Thus, the Law on Safety and Health at Work of the Republic of Serbia prescribes the employer's obligation to implement certain measures to ensure and maintain the necessary level of safety at work: for example, to ensure that work equipment is not harmful, but also to check compliance with the measures undertaken in certain time intervals. Considering the specific place of work, it is clear that in this case there are no provisions that would regulate these obligations more closely – for example, how does the employer guarantee the safety of work equipment that he did not provide, or over which he does not have physical control? Also, in what way and under what conditions can the employer check compliance with the above measures when the employee performs work from his home, or in situations where the employer does not even know where the employee performs his work? In addition, this issue is further complicated by the existence of the broad jurisdiction of the labor inspection, which has the right to inspect the premises where work is carried out, but if the employee works in their home, due to the Constitutional guarantee of the inviolability of the apartment, neither the employer nor the labor inspection would be able to carry out supervision without the consent of the employee.

A complex issue is the supervision of the performance of the employee's work, especially in the case of those employees who do their work at home. This is a consequence of the fact that the employer's supervisory powers have their limitations in the employee's right to privacy and the prohibition of disproportionate intrusion into his private life, as a result of which supervision can only be carried out to the extent justified by the legitimate interests of the employer, which is not always easy to determine.<sup>33</sup>

The question arising from the aforementioned obligations and powers related to the supervision of the performance of work and compliance with safety measures at work is how to reconcile the employer's obligation (and that of the labor inspection) related to the workplace, if one takes into account the employee's inalienable right to privacy that they enjoy in their apartment, and the inviolability of the apartment, which is guaranteed by the Constitution of the Republic of Serbia.<sup>34</sup> It is clear that this issue must be resolved as soon as possible due to the great dangers it entails.

The Guide to safe and healthy working from home was aimed at clarifying the aforementioned dilemmas of employers that have arisen especially after the outbreak of the pandemic of the infectious disease *Covid-19*. However,

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<sup>33</sup> International Labour Organization. (2021). *Teleworking arrangements during the Covid-19 crisis and beyond*. Available at: [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---ddg\\_p/documents/publication/wcms\\_791858.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---ddg_p/documents/publication/wcms_791858.pdf)

<sup>34</sup> Constitution of the Republic of Serbia, *Official Gazette of the RS*, no. 98/2006.

through this document, only the relevant provisions of the Labor Law and the Law on Safety and Health at Work have been pointed out, together with the fact that they should also be applied to “work from home” (as defined in the Guide itself), while adequate attention was not paid to the issue of their closer regulation.

## **ATTITUDES OF EMPLOYEES AND EMPLOYERS**

For the purpose of examining employees’ attitudes regarding working outside the employer’s premises, the author conducted a survey with 40 respondents – employees who, due to the introduction of the state of emergency in the Republic of Serbia, had begun to work in this way. The structure of the respondents was as follows: 75% of the respondents were female, while 25% of the respondents were male. At the same time, 65% of the respondents were between the ages of 25–34, 25% of the respondents were between the ages of 35–44, 7.5% between the ages of 45–54, and 2.5% between the ages of 55–64.

Of all respondents, as many as thirty-two (80%) answered that before the introduction of the state of emergency, they worked exclusively at the employer’s premises, while three answered that before the introduction of the state of emergency, they worked part of the working time at the employer’s premises.

The respondents’ answers to the question of whether the employer, when moving to work outside his premises, offered the employee an annex to the employment contract are worrying. Of the 35 respondents who, before the introduction of the state of emergency, worked exclusively on the employer’s premises or spent part of the working time on the employer’s premises, only 20% answered this question with “yes”.

When asked whether they still work outside the employer’s premises, 12 of them (30%) answered that they work exclusively outside the employer’s premises, while 8 respondents (20%) answered that part of their working time they work on the employer’s premises and part of the working time outside its premises. From these answers, it can be noted that working outside the employer’s premises (in its “pure” form or in the form of some “mixed” way of organizing work) is still highly relevant, although the epidemiological situation in the Republic of Serbia no longer requires the implementation of this way of organizing work.

Out of all the respondents, 32.5% stated that they believe that productivity at work is higher when they perform work outside the employer’s premises, while 22.5% stated that they believe that their productivity is lower in this case. Finally, 30% of the respondents declared that they believe that there is

no difference in productivity, while 15% of the respondents believed that they could not declare themselves on this issue.

When asked if they saw some positive or negative effects of working outside the employer's premises, compared to working on the employer's premises, the results were as follows: as many as 64.1% of respondents answered that it is easier to balance work and private obligations when the work is done outside the employer's premises; 43.59% of respondents answered that they have more free time; 33.33% answered that they believe that work productivity is better when working outside the employer's premises. On the other hand, 51.28% of the employees-respondents answered that during the performance of work outside the employer's premises, they felt a lack of separation between business and private life, while 33.33% answered that they felt ostracized during the performance of work.

Finally, the last and perhaps the most important question in the survey, which read "Based on your experience so far, would you like to do your work at the employer's premises or outside the employer's premises in the future", the employee-respondents answered as follows: 35 % stated that they would like to conduct the work exclusively outside the employer's premises, 22.50% that they would like to do part of the working time outside and part of the time at the employer's premises, while 42.5% answered that they would like to conduct the work exclusively at the premises employer.

The author believes that it is useful to mention the results of the survey conducted in 2020 and 2021 by the European Foundation for the Improvement of Living and Working Conditions (Eurofound) at the level of the European Union with more than 86 thousand respondents, to place results presented in this paper in a wider context. The results of this research showed that 53% of employees who work outside the employer's premises, specifically at home, said they were satisfied with the amount of work they were able to do, while as many as 56.9% said they were overall satisfied with the experience of working at home.<sup>35</sup>

These results coincide to a good extent with the results obtained through the survey conducted by the author, and despite the small sample, it is possible to conclude that the attitudes of employees who started working outside the employer's premises due to the infectious disease *Covid-19* are moving in a similar direction because there is a significant percentage of employees who consider working outside the employer's premises a positive experience. Based on the analysis of these responses, it can be cautiously concluded that the attitudes of a certain number of employees have changed in this regard and

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<sup>35</sup> Eurofound. (2020). *Living, working and COVID-19 dataset*. Available at: <https://www.eurofound.europa.eu/data/Covid-19/working-teleworking>.

that today we meet a much larger percentage of those who are interested in working outside the employer's premises in the future.

As for the attitudes of employers, as they did not participate in the survey for the reasons described in the introduction of this paper, we will refer to the results of the survey of the Organization for European Cooperation and Development (OECD), which was conducted in 2021 with employers from 25 countries.

Of all the employers who organized work outside their premises during the pandemic of the infectious disease *Covid-19*, as many as 63% rated working outside the employer's premises as a positive experience from the aspect of the company's operations. More than 60% of employers answered that, despite the challenges associated with the introduction of this way of work organization, the productivity of employees increased as a result of its introduction.<sup>36</sup>

When looking at the projection of the future relevance of working outside the employer's premises, the results of the aforementioned research showed that employers believe that in the future 42% of employees should perform work in this way at least part of the working time (5% of employees exclusively outside the employer's premises, 22% of employees should work in this way two or three days a week, and the rest with different working modalities).<sup>37</sup>

Since in Serbia until the date of writing this paper, no research was conducted at the national level that would deal with the analysis of the attitudes of employees and employers towards this way of organizing work, there remains the hope that the survey conducted for the purposes of writing this paper may be useful to researchers who decide in the future to conduct such research.

## CONCLUDING CONSIDERATIONS

With the growing relevance of working outside the employer's premises, which occurred due to the outbreak of the epidemic of the infectious disease *Covid-19*, many employees and employers had the opportunity to experience this way of organizing work. Large quantities of research have been conducted in the last two years precisely to establish whether the attitudes of employees and employers on this issue have changed compared to the period preceding the emergence of extraordinary health circumstances when these attitudes were predominantly negative.

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<sup>36</sup> Criscuolo, C., Gal, P., Leidecker, L., Losma, F., Nicoletti, G. (2021). *The role of telework for productivity during and post Covid-19: results from an OECD survey among managers and workers*. Paris: OECD Publishing, 18.

<sup>37</sup> *Ibid.*, 30.



The results of the survey conducted for the purposes of writing this paper, presented in the fourth segment of the paper, show that a significant number of employees who, due to the pandemic, began to perform work outside the employer's premises, saw the advantages of this way of organizing work, and that a large percentage of them are interested in performing work in this way in the future. If these results are compared with the attitudes of employees that prevailed before the outbreak of the infectious disease *Covid-19*, it is clear that the attitudes of this category of persons towards working outside the employer's premises have significantly changed in a positive direction. Of course, such results must be confirmed by conducting research on a more comprehensive sample, because the significance of the research conducted for the purposes of this paper is limited by the modest number of respondents.

Based on the results of the conducted survey, as well as on the presented results of the conducted research, which had as the subject the attitudes of employers and employees at the level of the European Union, it can be concluded that the attitudes of these two categories of persons towards working outside the employer's premises have experienced a change towards a more positive understanding of this way of organization of work and towards understanding its favourable effects on the company's operations and the lives of employees. In line with these changes, it can be cautiously concluded that working outside the employer's premises will have greater relevance in the future than it did before the outbreak of the infectious disease *Covid-19*.

It is indisputable that work outside the employer's premises has become of great significance since the outbreak of the pandemic of the infectious disease *Covid-19*. If, along with this fact, the results of the research presented in this paper and the conclusions regarding its future importance are taken into account, it is clear that the issues pointed out in the third segment of this paper must be given attention in the near future. Based on everything stated, it is obvious that the level of regulation of work outside the employer's premises in Serbia is at an unenviable level – the Labor Law regulates work outside the employer's premises in only two articles, the Law on Occupational Safety and Health does not recognize the specifics of this way of organizing work, while the by-laws adopted as a result of the pandemic of the infectious disease *Covid-19* also do not adequately regulate these issues. In this sense, activity of the domestic legislator is necessary to regulate these issues more adequately.

Examples of European countries that, after the end of these extraordinary health-related circumstances, have already begun to comprehensively regulate this issue after observing the same kinds of deficiencies that exist in our country, deficiencies that have been pointed out in this paper, can be significant to this endeavor.

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