

Telework as a Tool for the Continuity and Modernization of Public Services

Ahmed HARIR *

Public Services and Development Laboratory
Djillali LIABES University, Sidi Bel Abbès, Algeria

Ahmed.Harir@univ-sba.dz

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Abstract: There is no doubt that public service is based on a fundamental principle that guarantees the continuity of public services to individuals, namely the principle of continuity. However, this principle can be somewhat affected, leading to disruptions in the provision of services, particularly during times of crisis, which necessitates the urgent need to find solutions. For instance, during the health crisis caused by the spread of COVID-19, this situation significantly impacted the continuous functioning of public services and their delivery to the public. This compelled most states to seek solutions to address this issue, which was materialized through the adoption of the **teleworking** system by certain countries to ensure the continuity of public service delivery without requiring physical presence at the workplace.

Key words : public service - principle of continuity – teleworking - modernization

***Corresponding author: Ahmed Harir.**

Introduction:

It is undeniable that the health crisis caused by the COVID-19 pandemic constitutes a major public health catastrophe, unprecedented in modern history. However, this crisis has also highlighted certain positive aspects, including the necessity to modernize and digitize various public administration systems. Unlike other sectors, some in Algeria have made significant strides in this regard, such as the justice sector, higher education, and scientific research, among others. This shift marked a transition from traditional forms of public service delivery to more modern methods, with teleworking occupying a central role.

Judges were among the first professionals to adopt teleworking for procedural purposes, particularly through closed-door hearings conducted via videoconference. These practices were driven by public health imperatives, enabling cases to be handled without the need for physical presence. However, with the advent of the COVID-19 pandemic, confinement measures became mandatory for public servants and private sector employees, rendering workplaces inaccessible. This situation compelled most states to implement teleworking systems, allowing employees to perform their duties from home without the need for commuting.

In Algeria, the use of teleworking in the public sector remains a marginal practice compared to other countries. This paper aims to examine the legal framework of teleworking, its criteria for application, as well as its advantages and disadvantages in ensuring the continuity of public services, particularly during times of crisis.

1. Teleworking: A Legal Definition

1.1. Legal Definition of Teleworking

Teleworking is defined under Article L. 1222-9 of the French Labor Code as follows: "toute forme d'organisation du travail dans laquelle un travail qui aurait également pu être exécuté dans les locaux de l'employeur est effectué par un salarié hors de ces locaux de façon régulière et volontaire en utilisant les technologies de l'information et de la communication dans le cadre d'un contrat de travail ou d'un avenant à celui-ci".

Thus, teleworking is legally recognized as a professional activity performed remotely through the use of information and communication technologies (ICT), outside the employer's premises¹.

Alternatively, it can be described as work conducted wholly or partially outside the employer's premises, relying on ICT².

More comprehensively, teleworking refers to activities performed entirely or partially at a distance and carried out outside the employer's premises at least one day per week, utilizing advanced information and communication technologies³.

¹ Monique Pontier, *Réflexions sur les spécificités d'une gestion des ressources humaines appliquée au contexte du télétravail*, Revue des sciences de gestion, n°206, université de Saint-Etienne, France, p96.

² Monique Pontier, *Télétravail indépendant ou télétravail salarié : quelles modalités de contrôle et quel degré d'autonomie*, La Revue des Sciences de Gestion 2014/1 (N° 265), p 31.

³ Amina MERABET, Lamia HAMMADI BENSMAN, *L'impact du télétravail sur la satisfaction au travail en période de pandémie*, Revue de l'innovation et marketing, Volume: 80 / N°: 1 (2021), p235.

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This definition is based on two fundamental legal elements:

a. Spatial Distance:

This involves carrying out professional activities outside the immediate environment of the workplace while maintaining a functional connection through modern ICT.

b. Use of Advanced Technologies:

This refers to leveraging digital tools and modern communication methods to ensure the continuity of work remotely.

1.2. Criteria Governing Teleworking

Teleworking can be defined through three essential criteria that characterize its different modalities of practice⁴:

1.2.1. Independent or Employee Teleworking

Teleworking can arise from an individual's desire to gain professional autonomy, either by working independently or negotiating with an employer to work remotely. Within this framework, teleworking can represent a personal initiative aimed at increasing independence and improving professional practice. This approach may result in three scenarios:

- a. Working as an independent contractor;
- b. Negotiating with an employer to obtain a teleworking arrangement;
- c. Seeking a specific job that allows teleworking.

However, for salaried employees, independence is limited. In such cases, the teleworker fulfills professional obligations under the directives and authority of the administration or employer in exchange for remuneration.

1.2.2. Full-Time or Part-Time Work

Teleworking can be organized on the basis of either full-time or part-time employment, depending on the employer's needs or specific arrangements agreed upon with the employee.

1.2.3. Place of Work: Home, Dedicated Center, or Nomadism

Teleworking can be performed from various locations:

- From the employee's home;
- At a telework center specifically designed for this purpose;
- Or in a nomadic configuration, depending on the nature of the tasks and the available resources.

⁴ Monique Pontier, *Télétravail indépendant ou télétravail salarié : quelles modalités de contrôle et quel degré d'autonomie*, op cit, p31.

The combination of these variables helps to understand the practical modalities of teleworking. However, in the context of this study, it is essential to focus on the situation of public sector employees who are remunerated by administrative or public institutions. These employees can perform their duties remotely, either full-time or part-time, primarily from their homes.

2. Teleworking as a Mode of Organization: Advantages and Disadvantages

2.1. Advantages

Teleworking represents a form of work organization offering numerous advantages, including increased productivity, improved communication methods, reduced carbon footprint, and optimized working conditions. It also enhances employees' quality of work life while reducing stress⁵. Below are the main identified benefits:

2.1.1. Teleworking: An Innovative Tool for Public Service Continuity During Crises

*"Amid all these upheavals, one thing remained steadfast: the State. The invisible threads connecting state orders to citizens' obedience did not break. COVID-19 does not destroy the State. On the contrary, it brings it to the forefront"*⁶.

These lines emphasize that teleworking serves as a modernization tool for public service, ensuring the continuity of public activities when health crises prevent physical presence in administrative offices. This continuity operates within the legal framework of public law, which, although rigid under normal circumstances, demonstrates increased flexibility during exceptional crises.

2.1.2. Eased Legal Framework During Health Crises

The COVID-19 pandemic demonstrated the practical and legal necessity of teleworking. Under normal circumstances, employees are not obligated to work from home. However, this principle does not apply during crises, as affirmed by the Social Chamber of the French Court of Cassation⁷.

The health crisis compelled administrations to adopt teleworking in cases of exceptional circumstances that disrupted access to the workplace or on-site operations. This pressing need required intervention by the Council of State, as evidenced by its decision of June 10, 2020⁸. In this ruling, the Council ordered relevant ministers, including those of Overseas Territories and Budget, to issue a decree within six months specifying the teleworking modalities for the Agency for Overseas Mobility.

⁵ Anne Froment-Maire, Crise sanitaire et télétravail dans le secteur public ou l'occasion de poursuivre la modernisation de la fonction publique française, *Civitas Europa* 2020/2 (N° 45), op cit, p 58.

⁶ N.Roussellier, "L'Etat à l'âge de la crise sanitaire", *Etude*, vol septembre, n°9, 2020, p34.

⁷ Court of Cassation, Social Chamber, October 2, 2001, Zurich Insurance Company, 99-42.727, published in the bulletin.

⁸ French Council of State, June 10, 2020, case n° 435574.

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Moreover, teleworking offers bilateral benefits: For organizations, it reduces costs and optimizes workspace usage. For employees, it improves work-life quality while meeting economic and productivity demands⁹.

2.1.3. Strengthening Health and Safety Protections for Public Employees

Public employees engaged in teleworking enjoy the same rights as those performing their duties on-site, in accordance with applicable laws and regulations. During health crises such as the COVID-19 pandemic, teleworking allows these employees to carry out their responsibilities in a safer environment, thereby reducing health risks. Additionally, public employees whose health conditions make their presence in the workplace hazardous may be granted special leave upon presentation of a medical certificate¹⁰.

Administrative authorities are, however, responsible for ensuring compliance with health and safety standards for employees required to attend the workplace. This includes providing protective equipment such as masks, disinfectant solutions, and enforcing preventive measures during interactions with colleagues or the public.

2.1.4. Improved Compatibility Between Professional and Personal Life

Teleworking enhances the balance between professional and personal life. Employees working remotely often aim to leverage this arrangement to be more available to their families, a benefit particularly valued by women. This mode of work is also advantageous for various employee profiles, such as executives, those with long commutes, or individuals working extended or irregular hours, enabling them to better reconcile professional commitments with personal obligations.

However, this organizational model has ambivalent effects. While it facilitates work-life balance, it can also lead to dissatisfaction if working hours extend into evenings or weekends, which are typically reserved for personal or family time. This may result in an intensification of professional obligations, with limited opportunities for rest or breaks, thereby increasing the mental burden on employees¹¹.

2.2. Disadvantages of Implementing Teleworking

2.2.1. Limited Accessibility of Teleworking

Under normal circumstances, certain professional activities require in-person execution due to the need for specific equipment or a physical presence. As a result, these roles cannot be performed remotely. Additionally, positions requiring access to highly confidential data and secure handling within organizational premises may render teleworking impractical or outright prohibited by the employer or administrative authority.

Roles involving frequent and direct interaction with a supervisor also complicate teleworking implementation. Consequently, teleworking cannot be universally applied to all

⁹ Amina MERABET, Lamia HAMMADI BENSMAIN, op cit, p236.

¹⁰ Ibid.

¹¹ Ibid, p239.

public employees, including magistrates, due to the nature of their duties or the governing legislative frameworks.

To ensure the legal validity of teleworking arrangements, administrative delegations must include specific elements. Legislation must clearly outline telework-eligible roles, permissible locations, reference days, the start date, and potentially a planned adaptation period. This highlights the necessity of rigorously regulating teleworking modalities¹².

During health crises, exceptional circumstances create challenges for public administrations, notably concerning legal frameworks and administrative relationships. In such scenarios, teleworking must be integrated into an "emergency plan," encompassing anticipated measures, procedures, tools, and coordination mechanisms for rapid resource mobilization. These plans aim to address crises while ensuring the safety of individuals and assets. However, as with any extraordinary measure, teleworking raises questions about protecting individual freedoms and adhering to the principles of the rule of law.

2.2.2. Insufficient Resources for Effective Implementation

The forced adoption of teleworking during crises exposed several shortcomings at the organizational and citizen-interaction levels, necessitating a thorough reevaluation. Some administrations lacked the necessary resources to implement teleworking effectively. Key issues included:

- Technological delays, particularly regarding software;
- Use of outdated or inadequate computers;
- Lack of efficient equipment in certain institutions, reducing their operational effectiveness.

Permitting employees to use personal equipment also highlighted social inequalities, as not all employees have the necessary material means for optimal remote work. This disparity undermines teleworking quality and efficiency¹³.

2.2.3. Loss of Team Spirit

Teleworking physically separates employees from their professional environment, potentially leading to social isolation and a loss of team cohesion. Some employees may feel marginalized by their colleagues, perceiving inequalities in their contributions to organizational operations.

The reduction in social interactions and opportunities for discussion may fragment teams and degrade communication between employees and management. These challenges pose significant risks to collaboration and productivity within organizations¹⁴.

¹² Anne Froment-Maire, op cit, p 58.

¹³ Ibid, p 64.

¹⁴ Amina MERABET, Lamia HAMMADI BENSMAN, op cit, p237.

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Conclusion :

In general, teleworking emerges as a strategic tool that helps build a network of employees capable of ensuring the continuity of government operations during emergencies. This mechanism not only addresses current challenges but also lays the foundation for a more flexible and efficient public administration.

The health crisis has transformed the voluntary nature of teleworking, which previously prevailed, by making it mandatory in the context of the pandemic, where social isolation was necessary to contain the spread of the virus. This obligation was enforced due to the imperative of maintaining public service delivery.

However, teleworking was not fully operational from the moment it was introduced. In Algeria, despite the presence of considerable potential, this mode of work remains underutilized in public administrations. Its deployment is still limited due to the requirements related to monitoring, team organization, and supervision.

For the majority of public employees, this was their first experience with teleworking. As with any innovation, this method of work showed shortcomings that need adjustments. In conclusion, we offer the following recommendations to address these gaps:

- **Accelerate the modernization of public administrations:** Implement reforms aimed at updating the performance and infrastructure of public institutions, in line with societal changes and public service requirements.

- **Integrate teleworking as a permanent mode of organization:** Establish teleworking as a long-term organizational tool, beyond a mere lever for sustainable development or a strategy for reducing labor costs and carbon emissions.

- **Provide legal frameworks for teleworking:** Develop a legal framework that makes teleworking mandatory during crises, particularly health crises, while also making it optional for certain administrative activities, such as remote teaching.