

Challenges of Digitalization – July 2020

// Home Office

Reading time: 2-3 minutes

Digitalization makes it possible to carry out many activities from a home office. With the outbreak of the COVID 19 pandemic, a comprehensive infrastructure was created, literally overnight, and home office became a tangible reality. Digitalization has thus enabled many companies to continue working. For obvious reasons, legal requirements were rarely treated with the highest priority. Home Office will remain with us beyond the end of the COVID 19 pandemic. Reasons enough to create a legally compliant framework for this new gold standard in today's business world.

Legal Challenges for Home Office Operations

Legal requirements for the arrangement of activities in the home office result, in particular, from labor and data protection law.

- / **Technical and organizational data protection:** There are technical and organizational challenges for employers in connection with the work of home office employees. Accordingly, employees must be encouraged to behave in a data protection-compliant manner and technical solutions must be created to meet the challenges of personal data protection. Failure to do so may result in data protection violations, leading to **substantial fines**.
- / **Requirements of Customers:** In our world, work is based on the division of labor and networks, and thus value-adding chains no longer end at the factory gate. Even small and medium-sized companies are integrated into global economic and goods flows, always with a digital perspective in mind. Only by acting with provable diligence will you be considered a trustworthy digital partner. **Digital Trust Management** is therefore the key to lasting success - not only in the classic digital sector. A key element here is the secure legal integration of people working outside their own business premises - for example in the home office. This is where technical and organizational efforts will pay off.
- / **Collective and Individual Labor Law:** Employers may determine work equipment, tasks, and place of work. This naturally affects the interests of employees and is subject to various labor law requirements. For example, compliance with legal requirements on occupational safety and working hours must also be ensured in the home office. Depending on the company structure, **co-determination rights** of the works council may also be affected.

What Measures Are Recommended to Ensure Legal Compliance?

Making home office operations legally compliant is possible, but can only be successful when managed effectively.

- / For technical challenges, there is obviously a need for **technical solutions**. Regarding the organizational aspect, clear and comprehensible regulations must be created. The cornerstone of legally compliant home office operations is a **home office policy** that defines general organizational requirements. To ensure these requirements are accepted and lived by the workforce, they must also be communicated clearly. Employees should therefore be trained in data protection in general and data protection in the home office in particular.
- / Not every measure in a home office concept can be defined unilaterally. Reliable, labor law-proof frameworks therefore usually require an agreement with the employees, for example about the scope and content of controls in the home office. Here, the conclusion of a **home office agreement** with the employees, as a supplement to the employment contract, is recommended.
- / In case a works council exists in your company, information and co-determination rights must also be observed. The conclusion of a **works agreement on home office** can be an alternative or useful supplement to a home office policy.

Steps on the Way to a Legally Compliant Home Office Organization

As with every other digitization topic, the first step to legally compliant home office framework is to assess the current situation and to define objectives. Ask yourself whether and to what extent there are activities already taking place in the home office, which activities should take place in the home office and to what extent, and create clear policies. Reasonable elements are a **home office policy**, a **home office agreement** with the employees and, in co-determined companies, possibly a **works agreement on home office**.

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