Home Work
I. Introduction to Convention No. 177 and Recommendation No. 184

476. As noted in chapter II, work may be performed in a broad variety of settings, including on the employers’ premises, or at the home of the worker or other premises of his or her choice. The Committee notes that very few ILO Conventions and Recommendations, apart from the home work instruments, make specific reference to home work. Moreover, the application of certain instruments is restricted to workers in enterprises or establishments, while others permit the exclusion of certain categories of workers. The wording used in some ILO instruments and how they are defined at national level, may give rise to questions concerning their applicability to homeworkers. In addition, the instruments of general application that cover homeworkers too are often not applied to them in practice. The Home Work Convention, 1996 (No. 177), and its Recommendation, 1996 (No. 184), are intended to ensure that homeworkers enjoy rights that are generally applicable and to address their specific situation more systematically. Convention No. 177 provides, in Article 10, that it does not affect more favourable provisions applicable to homeworkers under other international labour Conventions. The objective of the instruments is to bring the protection of homeworkers into line with that of other workers.

477. It has to be recalled, as it was in the preparatory work for the instruments, that the ILO Constitution provides that international labour standards shall not affect any more favourable provisions established at the national level. Already in 1984, the International Labour Conference (ILC) had called for ILO action to deal with the special situation of homeworkers and placed special emphasis on the need to devise approaches with a view to giving them more effective protection. In 1985, the ILC invited the Governing Body to consider the situation of home-based workers as a possible new item for future standard-setting. In 1988, in its Conclusions concerning rural employment promotion, the ILO called on the ILO to design programmes aimed at documenting and improving the legal, economic and social conditions of home-based workers. A Meeting of Experts on the Social Protection of Homeworkers was held in 1990 to examine the nature and extent of the problems faced by homeworkers and provide policy advice concerning the national and international measures that could lead to more effective protection. Many of the experts believed that a better and more uniform understanding of the employment status of homeworkers would prevent ad hoc interpretations of labour legislation and that international guidance on this point would be very useful. In 1993, the Governing Body included this issue in the agenda of the ILC, which adopted Convention No. 177 and Recommendation No. 184 in 1996.

478. The employment status of homeworkers is often unclear, either because they are not declared as workers or because the law is not clear. Indeed, the great majority of homeworkers are in the informal economy.
II. Rationale for the adoption of international instruments on homeworkers

479. As recalled during the preparatory work, home work, that consists mainly of work carried out in a place other than the workplace of the employer for a remuneration, is a primary source of income for a large number of workers throughout the world. It may take many forms, from labour-intensive and skilled artisanal work (such as traditional embroidering) and industrial metal work, to telework or other information technology services. In the contemporary global economy, homeworkers also assemble and package goods, such as electronics, pharmaceuticals and auto parts. Home work is concentrated in the informal economy, and is highly gendered. In many industrial sectors, the majority of homeworkers are women who have not been able to gain access to regular employment due to family responsibilities or lack of skills, or opt to work from home due to cultural and social norms. Home work is also considered to be an alternative for older workers, workers with disabilities and isolated workers in rural areas.

480. Homeworkers lack recognition and visibility. Moreover, home work is highly feminized. Many workers who are in a vulnerable situation, due to migration status, family responsibilities or discrimination, choose home work because it is invisible. In some cases, home work may be the only option, for example for some workers with disabilities.

481. Homeworkers often do not have contact with other colleagues, are rarely unionized and have difficulty in contacting a workers’ representative in the event of problems. They are not often aware of their rights, and the lack of personal contact with colleagues and management makes it more difficult for occupational safety and health or skills-development issues, for example, to be taken into account.

482. In regions with high rates of unemployment or underemployment, home work is often the only means of earning an income. At the same time, globalization and technological improvements have brought radical changes to the organization of work, with recourse to home work increasing in many very diverse sectors. Home work is also an important element in both domestic and global supply chains, and is prevalent at the lowest levels of subcontracting chains.

483. Home work offers greater flexibility to enterprises to respond to irregular and seasonal changes in the market, and greater opportunities to adapt production rapidly to market requirements and fluctuations in consumption patterns or seasonal demand. Home work makes it possible for employers to have a secure group of core workers, assisted by temporary workers or outworkers as a labour reserve. Moreover, enterprises can recruit from a much larger area than would otherwise be the case and reach out further for better skills. It helps enterprises minimize labour costs and allows the expansion of production capacity, without the need to invest in capital equipment and storage (also as a result of just-in-time production and stock management technologies). Activities are divided into self-contained or autonomous tasks that can be carried out independently by a distant and cheaper labour force. Telework also tends to reduce costs, and in many cases productivity is improved, as there are fewer interruptions and it is easier to concentrate, provided that this flexibility ensures that the workers will have the effective possibility to work without distractions.

484. Home work also offers benefits for national economies. It is a source of job and enterprise creation, and may be an option in depressed regions with an abundant supply of underemployed labour. For workers, home work can be a valid alternative to regular employment in an enterprise, particularly for workers who are obliged or prefer to stay at home, including workers with family responsibilities, workers in rural or distant areas or workers with disabilities.661 Home work can also be a provisional solution for those who are transitioning from one job to another or have not managed to find a regular job in an enterprise. In principle, homeworkers have more independence,662 and can choose when they work and the pace of their work. Technology has improved communications between enterprises and workers, which has facilitated home work. Working at home also makes it possible to avoid the time spent and cost of transport.

485. However, concern is often expressed at both the national and international levels at the particularly vulnerable position of homeworkers in the labour market, the inadequacy of their legal protection, their weak bargaining position and their isolation, and consequent invisibility. The flexibility that benefits enterprises can be a source of stress for homeworkers, whose contracts may be ended abruptly. They are often not recognized (they often do not recognize themselves) as being part of the labour force. The employment status of homeworkers is frequently casual or ambiguous, and their terms of employment tend to be worse than those of other workers. Even in countries where protective labour legislation covers homeworkers, there is often a problem of enforcement. The diverse nature and sectors in which home work is undertaken, the diversity between the most traditional forms of home work and the most evolved (including some forms of platform work), compounded by the scarce and fragmented data on home work and the sectors in which it is prevalent, also make it difficult to provide a uniform definition of this type of work and address it adequately. It has been argued that factories in developing countries subcontract aspects of production to homeworkers in response to the purchasing practices of brands and retailers, tight deadlines, fluctuating demand and pressure on suppliers to reduce production costs.663 Many homeworkers found themselves

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661 For example, Bahrain (Ministerial Decree No. 39 of 2010 regulating productive activity at home to promote homework). The Government indicates that this programme provides employment opportunities for youth, older and retired workers and contributes to women’s empowerment.

662 Although new technologies allow greater remote control by the employer.

at the lowest tiers of supply chains, generally in the informal economy facing various forms of discrimination and limited or no legal protection.\textsuperscript{664}

\textbf{486.} When the instruments were adopted, it was considered by many that there were inconsistencies between countries in terms of employment status, the level of coverage of labour legislation and the rights ensured to homeworkers. There was therefore broad support for the adoption of international regulation to bring homeworkers into the mainstream of the labour market, alleviate them from poverty, improve the situation of women and address child labour. Convention No. 177 and Recommendation No. 184 seek to establish a level playing field between homeworkers and regular workers, resulting in improved productivity and performance, and protecting employers from unfair competition. At the time of their adoption, the instruments were not supported by employers and some governments, which considered that the diverse nature and new and emerging forms of home work were an obstacle for regulation. Many also considered that standards on home work would affect workers and employers seeking flexibility.\textsuperscript{665}

\textbf{487.} The Convention is promotional in nature and complements standards that already exist.\textsuperscript{666} The Committee observes that further changes in the organization of work, fostered by substantial innovations in technology and communications, together with an increase in outsourcing and subcontracting, have resulted in an increase in all forms of home work, particularly in the context of supply chains and platform work. Home work, which has often been considered as an old-fashioned or pre-industrial form of work, is now synonymous with new models of business and entrepreneurship.

\begin{figure}
\centering
\includegraphics[width=\textwidth]{figure4.2.png}
\caption{Proportion of home-based workers: Country estimates}
\end{figure}

\textsuperscript{664} ILO: Conclusions concerning decent work in global supply chains, ILC, 105th Session, Geneva, 2016, para. 3.
\textsuperscript{666} ibid, p. 213.
The Committee considers that the instruments, adopted in 1996, have been useful tools for the transition to formality of a specific group of workers in a multiplicity of sectors at a time when the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), had not yet been adopted. They are also applicable to a whole set of new forms of work that are yet not recognized as such by the legislation in many countries (such as the gig economy and digital platform work), in which informality and casualization prevail.

The objective of the instruments is twofold:

1. the adoption, implementation and periodic review of a national policy on home work; and
2. the promotion, as far as possible, of equality of treatment between homeworkers and other wage earners.
III. Definitions and scope of application

Article 1 of the Convention
For the purposes of this Convention:
(a) the term home work means work carried out by a person, to be referred to as a homeworker,
   (i) in his or her home or in other premises of his or her choice, other than the workplace of the employer;
   (ii) for remuneration;
   (iii) which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used,
   unless this person has the degree of autonomy and of economic independence necessary to be considered an independent worker under national laws, regulations or court decisions;
(b) persons with employee status do not become homeworkers within the meaning of this Convention simply by occasionally performing their work as employees at home, rather than at their usual workplaces;
(c) the term employer means a person, natural or legal, who, either directly or through an intermediary, whether or not intermediaries are provided for in national legislation, gives out home work in pursuance of his or her business activity.

Article 2 of the Convention
This Convention applies to all persons carrying out home work within the meaning of Article 1.

1. Definitions of home work and homeworker
490. The Convention only provides a definition of “home work” and of “employer”. The definition of “home work” was the subject of intense debate. The wide range of sectors in which home work takes place and the different practices at the national level made it difficult to find common ground for an understanding. In the end, a short and concise definition was adopted to encompass the broad variety of situations involving home work, including telework. During the preparatory work, it was recalled that the definition should be viewed within the context of the Convention as a whole, the goal of which is to improve the situation of homeworkers, and that the intent is to have a broad definition so as to include those who may not already be recognized as having employee status, but who are not truly independent.667

(a) Work carried out by a person who is referred to as a “homeworker”
491. With the inclusion of the reference to home work here, it was no longer considered necessary to provide a definition of “homeworker”. Home work has to be differentiated from the production of goods for personal consumption. It is part of the umbrella concept of “home-based work”, which in contrast also includes self-employed workers and involves the direct transaction between the producer and the final consumer. Homeworkers, on the other hand, are usually paid a piece rate and are not involved in the sale of finished products. Even if, on many occasions, the two categories are very difficult to differentiate because they share many characteristics, such as poor working conditions and invisibility, it is important to distinguish between them in research and statistics as a basis for an adequate assessment of the situation of homeworkers in the labour market.668

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492. The terms “home-based work” and “home work” do not include:
- unpaid care work in one's own home;
- paid domestic work and care work in the households of others; or
- subsistence production for household consumption.

(b) Place of work

493. Work has to be performed outside the premises of the employer. It is generally, but not necessarily, undertaken in the worker's home. Workers may choose another place, such as a warehouse, workstation, workshop or co-working space, provided that it is not the employers' premises.

(c) Exclusion of occasional work

494. Article 1(b) of the Convention excludes from the definition of homeworkers employees who from time to time perform their work as employees at home. This provision is also relevant to teleworking. The objective is to prevent workers who take home their normal work from being considered as homeworkers, rather than regular workers. Such workers are covered by the regulation governing the workplace, where most of their work is carried out. Moreover, the provision only refers to employees, and to cases in which work is performed for the same employer, but is occasionally carried out at home. This exclusion does not cover the case of workers with several jobs, one of which is regularly carried out at home for one or more employers. Such workers would be considered to be homeworkers.

(d) Remuneration

495. There must be a relationship of paid employment between the homeworker and the employer, subcontractor, agent or other intermediary. Article 1(a)(ii) of the Convention defines home work as work carried out “for remuneration”, but does not specify the type of remuneration or how it should be established. It has to be born in mind, however the particularities of remuneration as it concerns homeworkers. They are often paid on a piece-rate basis. Besides, as they work from home, they are in charge of some costs that other workers do not have to face (energy, water, communications, machinery maintenance). This should be reimbursed to him/her.

(e) Compliance with the employer's specifications

496. The requirement for products or services to respond to the specifications provided by the employer is an element that serves to determine the “non-autonomous” nature of home work. As the work is undertaken outside the employer's premises, the level of supervision by the employer tends to be more restricted and limited to providing specifications. However, direct supervision is increasingly common, particularly now that new technologies, including telecommunications and “wearables”, enable employers to exercise stricter control over remote work, especially in the case of telework.

497. Article 1(a)(iii) of the Convention refers to “a product or service”. There was some discussion during the preparatory work concerning the exclusion of services, which are normally performed by independent workers. However, when examining some forms of services, such as proofreading or secretarial work, it was acknowledged that they could be performed within an employment relationship.

498. Under the terms of Article 1(a)(iii), the status of homeworkers is not determined by who provides the tools and materials. Homeworkers may use their own equipment, or equipment provided by the employer, or even by an intermediary (when so permitted by the legislation).

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669 See, in this regard, CEACR – Netherlands, C.177, direct request, 2013.
If that were not the case, many workers who use their own materials would be excluded from the coverage of the instruments. There is a broad range of situations in this respect at the national level. In some countries where national regulations use this criterion as an indicator of independence, employers undertake a simulated sale of materials or machinery to the homeworker. The homeworker uses these materials to produce the goods or provide the services. As he/she is seen as providing the materials, he/she is considered as a self-employed worker. The term “other inputs” was inserted as some types of work, such as telework or intellectual work, may not involve materials or equipment.\(^\text{670}\)

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**Hungary – The Labour Code, section 197, provides that:**

1. Unless otherwise agreed, the employer’s right of instruction is limited solely to the definition of the duties to be discharged by the employee.
2. The employer may restrict the use of the computing equipment or electronic devices supplied solely to the work that the employee performs on its behalf.
3. An inspection concerning the completion of the work assignment shall not constitute any right for the employer to inspect any information stored on the computing equipment of the employee used for discharging his or her duties which are unrelated to the employment relationship. With regard to the right of access of the employer, the data necessary to control the prohibition or restriction prescribed in subsection (2) shall be considered to be related to obligations originating from the employment relationship.
4. Unless there is an agreement to the contrary, the employer shall determine the type of inspection and the shortest period of time between the notification and commencement of the inspection if conducted in a property designated as the place of work. The inspection may not bring unreasonable hardship on the employee or on any other person who is also using the property designated as the place of work.
5. In the absence of an agreement to the contrary, the employee's working arrangements shall be flexible.

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(f) **Exclusion of independent workers**

499. A person working at home for remuneration, and whose work results in a product or service as specified by the employer, can only be denied the status of homeworker if he or she has the degree of autonomy and economic independence necessary to be considered an independent worker under national laws, regulations or court decisions. Article 1(a) of the Convention excludes from the definition of homeworker independent workers as defined by national laws, regulations or court decisions. This draws a distinction between homeworkers and independent artisans or professional freelance consultants. The only specific indicators set out in the instruments to help determine the condition of independent worker are “a degree of autonomy and of economic independence”, with the definition being left to national laws and jurisdictions. This allows enough flexibility to cover the widest possible range of homeworkers.

500. The Committee recalls that the general term “home-based workers” encompasses all workers, both dependent and independent, who work from home. Homeworkers are thus one group of home-based workers. It is important to note that the available statistical data generally concerns the broader notion of home-based workers.

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(g) Assistants

501. Homeworkers do not always carry out the work alone; they are often helped by members of their family or by paid assistants. However, neither the Convention nor the Recommendation refer to assistants. This is in response to concerns that homeworkers who employ assistants may be considered to be employing other workers, and therefore be classified as independent contractors. This also gives rise to concerns as sometimes these assistants are underage children, as well as concerns regarding the amount of work allocated to homeworkers (as homeworkers may accept more work if they can count on help from their assistants) and the safety and health risks faced by assistants who have not received adequate training. This is also closely related to the low levels of remuneration received by homeworkers.671

502. With reference to child labour, Paragraph 10 of the Recommendation indicates that national laws and regulations concerning minimum age for admission to employment or work should apply to home work. Regarding occupational safety and health, Paragraph 21 indicates that homeworkers should be required to take reasonable care of their own safety and health and that of other persons who may be affected by their acts or omissions at work.

503. The legal status of assistants is more difficult to determine, and accordingly the application to them of protective legislation. Nor is the relationship between assistants and homeworkers, or between assistants and employers, specified in the instruments.

504. The Committee notes that this lack of clarity is reflected at the national level. Although the possibility for homeworkers to be helped by family members and assistants is envisaged in many legal provisions, they do not specify the legal status, working conditions and protection afforded to such assistants. Regulations in some countries provide for the possibility of having only one assistant,672 and the law sometimes also allows apprentices.673 Regulation in other countries only accepts homeworkers being assisted by their family members, and excludes all forms of paid assistance.674

(h) Scope of application

505. Article 2 establishes a broad scope of application of the Convention. This is important, as the term “home work” covers a wide set of activities that are quite different in nature, ranging from the production of goods to the provision of services in very traditional industries and types of manufacturing, to very modern forms of work, including telework and platform work when they meet certain conditions. The legislation in certain countries refers to homeworkers as “outworkers”.

506. Specific legislation applicable to home work has been adopted in certain countries which contains definitions, including of home work.

Thailand – The Homeworkers Protection Act B.E. 2553, section 3, defines “home work” as work assigned by a hirer in an industrial enterprise to a homeworker to be produced or assembled outside of the workplace of the hirer or other works specified by the ministerial regulations.

671 ibid, p. 37.
672 For example, France (Labour Code, section L7412-1(2)) and Morocco (Labour Code, section 8).
673 For example, Argentina (Act No. 12713, section 3(a), which allows homeworkers to be assisted by one assistant or one apprentice).
674 For example, Algeria (Executive Decree No. 97-474, section 2).
507. In some cases, only certain aspects of home work are regulated, such as working time. In others, the general labour legislation contains specific sections on home work with definitions.

508. The legislation in some countries confines home work to certain sectors. In some countries, the legislation on home work only applies to manual work, industrial work or a specific sector. It sometimes excludes certain sectors, such as teleworking or specific activities that can be undertaken at home, such as accountancy or translation. In contrast, the law in some countries specifically covers telework, while in others there are different legal provisions or regimes applicable to home work and telework.

509. Some national regimes do not envisage the possibility of home work. Other reports indicate that the national legislation does not contain a definition of employee or employer in relation to home work, without specifying whether the general regime is applicable to them, or whether home work is allowed at the national level. The regulations in many countries provide a definition of homeworker.

Austria – The Homeworking Act 1960 (BGBl No. 105/1961, as amended) defines a homeworker as a person who is engaged in manufacturing, finishing, processing or packaging goods in their own home or a workplace selected by them on the orders of and on the account of persons who allocate home work.

510. In other countries, no distinction is made between homeworkers and other categories of workers in the general legislation; the concept of homeworker is included within that of “employee” or general labour provisions simply apply to homeworkers.

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675 For example, Ireland (Organisation of Working Time Act 1997, No. 20 of 1997).
677 For example, Japan (home work is limited to industrial home work) and Switzerland (Act LTRD RS822.31 limits home work to industrial and manual work. Section 351 of the Code of Obligations provides a broader definition of a labour contract for home work which could, according to the Government’s report, apply to the provision of services such as translation, or even to platform work).
678 For example, India (the Beedi and Cigar Workers (Conditions of Employment) Act, 1966).
679 For example, Germany.
680 For example, Austria (according to the Government’s report, the Homeworking Act, 1960 (BGBl No. 105/1961, as amended) does not apply to teleworking, accountancy or translation) and Belgium (the Act of 3 July 1978, Title VI, section 119, excludes telework).
681 For example, Bosnia and Herzegovina (Republika Srpska, Labour Law, section 44) and Estonia (Employment Contracts Act, paragraph 6(4)).
682 For example, Belgium (Collective Agreement No. 85 of 2005 and the Royal Order of 22 November 2006 for public officials), Germany, Italy and Tajikistan (the Labour Code 2016 includes home work (sections 252–254) and remote work (sections 255–257)).
683 As indicated in the Government reports of Afghanistan, Benin and Panama.
684 For example, Burkina Faso and Kiribati.
685 For example, Costa Rica (Labour Code, section 209).
686 For example, Azerbaijan, Bosnia and Herzegovina (Federation of Bosnia and Herzegovina and Republika Srpska), Burkina Faso, Botswana, Cambodia, China, Cyprus, Denmark, Estonia, Finland, Gabon, Georgia, Greece, Indonesia, Islamic Republic of Iran, Republic of Korea, Latvia, Lithuania, Malta, Mauritius, Montenegro, Myanmar, Namibia, Nepal, New Zealand, Norway, Peru, Senegal, Slovakia, Sri Lanka, Spain, Sweden, Tonga, Ukraine and United Kingdom.
Finland – The Employment Contracts Act, section 1, provides that the application of the Act shall not be prevented merely by the fact that the work is performed at the employee's home or in a place chosen by the employee, or by the fact that the work is performed using the employee's tools or machinery.

511. With regard to assistants, many laws allow assistance by family members or other workers, although some specify a limited number of assistants. Some provisions make specific reference to the possibility of materials being provided by either the employer or the homeworker. The possibility of the homeworker buying materials from the employer to whom the finished product is then sold back is also envisaged in some national legislation. In some cases, the legislation even requires the contract to specify the modalities for such provision of materials.

Algeria – Executive Decree No. 97-474 of 8 December 1997, section 2, provides that: Any worker shall be classified as a homeworker, within the meaning of this Decree, who carries out in his home work for the production of goods, services or processing for remuneration, on behalf of one or more employers, alone or with the help of the members of his family, excluding any employed person, and procures himself all or part of the raw materials and tools or has them delivered to him by the employer, excluding any intermediary.

Bulgaria – The Labour Code, section 107(b)(2), provides that workers or employees whose employment contract envisages the discharge of employment obligations related to the production of goods and/or the provision of services at the home of the employee or in other premises of their choice outside the workplace of the employer in exchange for remuneration and with their or the employer’s equipment, materials and other auxiliaries shall be considered homeworkers and employees.

2. Definition of employer

512. The Convention also provides a straightforward definition of “employer” as a person, natural or legal, who gives out home work in pursuance of their business activity. Article 1(c) also acknowledges that home work may be given out through an intermediary, while recognizing that legislation in many countries prohibits recourse to intermediaries in that context. The definition of employer is important, particularly as home work is often hidden and employers may try to evade their obligations by declaring homeworkers as independent workers or by hiding behind intermediaries.

513. Those who give out work in pursuance of their business activity are considered to be employers. This helps to differentiate them from clients who order work for personal use. Furthermore, according to the preparatory work, the phrase “business activity” is sufficiently broad to cover the “business” of governmental or non-profit organizations, and is not restricted...
to private sector profit-making activities. This definition of employer, in combination with the definition of home work and the provisions on the national policy on home work, helps to distinguish commercial from labour contracts for the purposes of the Convention.689

Ecuador – The Labour Code, as amended in August 2018, section 274, defines employers in home work as manufacturers, traders, intermediaries, contractors, subcontractors, pieceworkers, etc., who give or commission work in this manner. It is immaterial whether or not they supply the materials and tools, or whether they fix the wage by the piece, by work or in any other way.690

514. The definition of employer in the context of home work may also refer specifically to telework.691 In some cases, national legislation specifically considers home work as a possibility for the employer to outsource or subcontract production.692 However, some laws explicitly prohibit this possibility in the event of restructuring, reorganization or conversion programmes.693

Philippines – The Labor Code, article 155, defines the “employer” of homeworkers as any person, natural or artificial who, for his account or benefit, or on behalf of any person residing outside the country, directly or indirectly, or through an employee, agent contractor, sub-contractor or any other person:

(1) Delivers, or causes to be delivered, any goods, articles or materials to be processed or fabricated in or about a home and thereafter to be returned or to be disposed of or distributed in accordance with his directions; or

(2) Sells any goods, articles or materials to be processed or fabricated in or about a home and then rebuys them after such processing or fabrication, either by himself or through some other person.

515. In some cases, the law makes specific reference to the possibility of the homeworker working for one or more employers.694

3. Definition of intermediary

516. The definition of “employer” in Article 1(c) of the Convention is a person who “either directly or through an intermediary, whether or not intermediaries are provided for in national legislation, gives out home work ...”. Although there are several references to intermediaries in the Convention and the Recommendation, they are not defined in the instruments. Indeed, the wording of the instruments is succinct in relation to the role and responsibilities of intermediaries. During the preparatory work, they were referred to as persons who derive an income from taking orders from one or more enterprises and having them carried out by one

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690 See also Panama (Labour Code, section 138).
691 For example, in Bulgaria, the term “employer” is legally defined in section 1(1) of the Additional Provisions of the Labour Code. “Employer” is any natural person, legal entity or its unit, as well as any other organizationally and economically separate entity (an undertaking, establishment, organization, cooperative, farm, venue, household, company or the like) which independently hires staff under an employment relationship, including for the purposes of performing home or telework and their provision for performance of work within an undertaking using hired personnel.
692 For example, Germany (Homework Act, section 2(3)).
693 For example, Italy Act No. 877 of 1973 on rules protecting home work, section 2) and Portugal (Act No. 101/2009, section 2).
694 For example, France (Labour Code, section L7412-1(1)) and Peru (Legislative Decree, Act on productivity and labour competitiveness, No. 728, section 87).
or more homeworkers. Where they are permitted (they are prohibited in many countries), they are considered to be a means of matching the supply and demand for work. During the preparatory work, the argument was put forward that there should be no reference to intermediaries, as that might introduce uncertainty regarding the relationship between the intermediary, the employer and the workers. The status of intermediaries is not determined in the instruments, which responds to a desire to make it clear that the person responsible in relation to the worker is the employer as the giver of the work. However, in practice, the intermediary is often the person who gives out work to the homeworker. Sometimes finding the real employer is even more difficult in cases of chains of successive subcontractors and intermediaries, or even false cooperatives.

517. Article 8 of the Convention provides that: “Where the use of intermediaries in home work is permitted, the respective responsibilities of employers and intermediaries shall be determined by laws and regulations or by court decisions, in accordance with national practice” leaving it to the national jurisdictions to determine the legal status and responsibilities of intermediaries.

518. Intermediaries can be natural or legal persons. For example, in modern labour markets, private employment agencies are considered to be intermediaries which enable enterprises to enjoy greater flexibility in increasing or decreasing their workforce. Bearing in mind the provisions of the Private Employment Agencies Convention, 1997 (No. 181), the Committee observes that private employment agencies which provide the labour market services of matching offers and applications for employment are in some circumstances seen as acting as intermediaries without becoming a party to an employment contract. This is in conformity with the notion that the relationship is not established between the intermediary and the homeworker, but between the employer and the homeworker. It is also important to be aware of the interlinkages between intermediaries and the multiple-party arrangements referred to in Paragraph 4(c) of Recommendation No. 198. The Committee also considers that the role of digital platforms as employers or intermediaries should be further examined.

CEACR – In its direct request concerning Tajikistan, the Committee noted that the specific responsibilities of placement agencies with respect to home work are not prescribed by legislation and it recalled that their responsibilities may be determined by legislation, regulations or by court decisions. The Committee accordingly requested the Government to provide information on any measures taken or envisaged to establish the respective responsibilities of employers and agencies with respect to the matters covered by the Convention.

According to the CGT RA of Argentina intermediaries are often used in the country to conceal the true identity of employers.

519. In order to ensure transparency concerning the parties involved in the relationship and their responsibilities with respect to the homeworker, Paragraph 5 of Recommendation No. 184 indicates that homeworkers should be kept informed of the name and address of the employer and the intermediary. Paragraph 6 calls for the registration of employers and any intermediaries used, with a view to ensuring transparency regarding who the real employer is and how to deal with responsibilities. Moreover, Paragraph 18 indicates that: “Where an intermediary is used, the intermediary and the employer should be made jointly and severally liable for payment of the remuneration due to homeworkers, in accordance with national

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698 Tajikistan, CEACR, C.177, direct request, 2016.
law and practice.” The role of supervision and enforcement, and the availability of adequate mechanisms for dispute resolution, as indicated in Paragraph 28, is crucial in this respect.

520. Many governments indicate that their national legislation does not envisage the intervention of intermediaries in the field of home work,699 or explicitly prohibits them.700 In some regulations, intermediaries are included in the definition of employer.701

521. The laws in some countries provide a definition of “intermediaries,”702 who are persons who carry out work for the benefit of an employer, even when they appear to be independent entrepreneurs organizing the services of certain workers to carry out work in which they use premises, equipment, materials or other elements of an employer for the benefit of the latter, and in ordinary activities inherent or related to those activities. They are sometimes required to declare their status and the name of the employer on whose behalf they are acting when entering into employment contracts. Otherwise, they may be jointly and severally liable with the employer for the relevant legal and contractual obligations.

522. In some countries, the legislation concerning private employment agencies and temporary work agencies is also applicable to home work.703 In some cases, the law provides that, where temporary work agencies intervene to provide home work, they are the employer of the homeworker.704 Sometimes, this responsibility is divided: for example, occupational safety and health issues fall under the responsibility of the employer, while other protections are the responsibility of the agency.705

523. In some cases, although intermediation is allowed in home work, there are no legal provisions establishing the several liability of the employer and the intermediary for the payment of remuneration.706 In certain other cases, several and joint liability is provided for by law.707 In some countries, the subcontracting enterprise is identified with the intermediary. As they perform functions on behalf of the employer, joint liability is established by the regulations in many countries.708 In other cases, joint liability is applicable to the intermediary only in cases where he or she has not registered as an intermediary.709

524. In terms of the employment status of intermediaries, under some national regulations they are considered to be workers in relation to the giver of work, and as employers in relation to the homeworkers performing the work.

Argentina – Act No. 12713 of 1941 on home work, section 4, in fine, provides that “intermediaries ... shall be considered to be home-based workers in relation to givers of work and as employers subject to the requirements imposed upon them by this Act and its regulations in relation to those who they entrust with the performance of work”.

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699 For example, Afghanistan, Armenia, Austria, Colombia, Cyprus, Denmark, Jamaica, Mauritius, Montenegro, Spain, Togo, Turkmenistan and Ukraine.
700 For example, Algeria (Executive Decree No. 97-474, section 2), Belgium, Dominican Republic (Labour Code, section 273(2)), Italy (Act No. 877/1973, section 2(4), provides that, in the event of non-compliance, intermediaries and homeworkers shall be considered as employees of the employer) and Mexico (Federal Labour Act, section 316).
701 For example, Ecuador (Labour Code, section 274).
702 For example, El Salvador (Labour Code, section 4) and Paraguay (Labour Code, section 26(b)).
703 For example, Bosnia and Herzegovina, Estonia, Finland, Republic of Korea and Morocco.
704 According to the report from Bulgaria.
705 According to the report from Ireland.
706 For example, Croatia (Labour Market Act No. 118/18) and Hungary.
707 For example, Argentina (Act No. 12713, section 4), Costa Rica (Labour Code, section 3), Gabon (Act No. 20/2007), Honduras (Labour Code, section 7) and Bolivarian Republic of Venezuela (LOTTT, section 210).
708 For example, Germany (the Home Work Act (HAG) does not provide for such joint liability, except under certain conditions specified in section 21(2) respecting the use by the employer of an unreliable intermediary) and Philippines (Order No. 05-92 of the Department of Labor and Employment allows contracting and subcontracting, and in section 11 provides for the joint and several liability of the employer and the contractor or subcontractor).
709 For example, Paraguay (Labour Code, section 25).
4. The question of the employment relationship of homeworkers

525. As seen in chapter II, the employment relationship may be defined as a legal link between a person who performs work and the person for whose benefit the work is performed in return for remuneration, under certain conditions established by national law and practice. Paragraph 12 of Recommendation No. 198 calls on Members to define the conditions (such as criteria and indicators) applied to determine the existence of an employment relationship, and refers to two such conditions, namely subordination and dependence. Paragraph 13 of Recommendation No. 198 provides a list of indicators that could also serve to determine the employment status of homeworkers (see chapter II).

526. Recommendation No. 204 is also relevant when examining the situation of homeworkers. Paragraph 4(c) of Recommendation No. 204 refers to “employees holding informal jobs in or for formal enterprises, or in or for economic units in the informal economy, including but not limited to those in subcontracting and in supply chains …”, while Paragraph 4(d) refers to “workers in unrecognized or unregulated employment relationships”.

527. The special circumstances in which home work takes place and the fact that legislation is unclear or is silent respecting the employment status of homeworkers contributes to their vulnerability. They are often found at the end of complex supply chains, following a range of contractors, subcontractors, agents and intermediaries in different countries, which makes it difficult to determine the identity of the employer.

528. Article 1 of the Convention does not contain a specific reference to the employment status of homeworkers. It only specifies that independent workers, as defined by national laws, regulations or court decisions, are excluded from the coverage of the Convention. The employment status of the homeworkers who are covered by the Convention is less clear. This reflects the very diverse criteria prevailing during the negotiation of the instruments and the fact that, although in some countries homeworkers are included within the scope of traditional labour law, in many others they do not have the status of employee, but nor are they independent. Indeed, in many cases their status is grey or intermediate.710

529. During the preparatory work, the issue was raised of whether the exclusion of independent workers meant that all those who were covered by the Convention were employees. In its comments, the Office considered that the instruments should encompass those persons who are employees and those who are not employees but have a special status as homeworkers, as well as those whose status is unclear but resembles more closely an employee than an independent contractor.711 Moreover, as indicated by the representative of the Government of France during the preparatory work, the Convention should also cover the situation of “false” independent workers.712 Article 1 thus leaves the ground open for national jurisdictions to cover not only those cases in which the employment relationship is clearly established, but also workers in the informal economy, or where the employment status is not clear.

530. As noted above, the definition of homeworker should be viewed in the context of the Convention as a whole, which has the objective of improving the situation of homeworkers. From this perspective, the Convention’s broad definition includes those who may not already be recognized as having employee status, but who are not truly independent.713

531. It is often argued that the main indicator of the employment relationship, namely subordination, is less clear in home work, as there is less possibility to supervise workers. However, there are other cases in which subordination is also less clear but where the dependency is not discussed. While economic dependence could be acknowledged as homeworkers depend

710 See in this regard, ch. II, section on dependent self-employment.
712 ibid., para. 61.
on the work provided by the employer, they are often not under the direct control or supervision of the employer.

532. The situation varies at the national level, with homeworkers being considered as employees in some countries, and as self-employed workers in others. The nature of the employment relationship between the homeworker and the employer is crucial to determining whether or not general labour legislation is applicable to homeworkers. This is particularly the case in countries where there is no specific legislation on home work and where courts have to decide in each particular case whether a contract of employment exists in the case of home work. In turn, this has a direct impact on their working conditions and social protection.

533. The Committee observes that the recent definition of dependent contractors for statistical purposes adopted by the 20th ICLS may be of assistance in the determination of the employment status of homeworkers. The Committee recalls in this regard that the Resolution concerning statistics on work relationships defines “dependent contractors” as workers employed for profit, including workers without a contract of employment and those paid on a piece-rate basis. They are dependent on another entity that exercises control over their productive activities and directly benefits from the work performed by them. Their dependency may be of an operational nature, through organization of the work and/or of an economic nature. One or more of the following characteristics may be relevant for their identification:

(a) their work is organized or supervised by another economic unit (a client, an entity that mediates access to clients);
(b) the price paid for the goods produced or services provided is determined by the client or an intermediary;
(c) access to raw materials, equipment or capital items is controlled by the client or an intermediary;
(d) their actual working arrangements or conditions closely resemble those of employees.\(^{714}\)

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\(^{714}\) ILO: *Resolution concerning statistics on work relationships*, 20th ICLS, Geneva, 2018, paras 35 and 36.
534. In many cases, there is a combination of an employment relationship and an independent contractor status. For example, in some countries, homeworkers are considered to be independent contractors under labour law and employees for other purposes, such as taxation or social security. In certain countries, the law requires the existence of a labour contract to enjoy the same rights as other workers under the Labour Code.

535. In other cases, homeworkers enjoy a specific status that provides some protection, but not to the same level as employees. The law sometimes specifically provides that there is an employment relationship. For instance, the fact that work has to be carried out according to the specifications given by the employer is considered, in some legal systems, as an indication of the existence of subordination, which is one of the elements that demonstrates the existence of an employment relationship.

**Italy** – Act No. 877 of 1973 on rules protecting homeworkers, section 1, provides that subordination, for the purposes of this Act, occurs when the homeworker is required to comply with the guidelines of the entrepreneur concerning the execution and the characteristics and requirements of the work.

536. In some countries, the law provides for a presumption of the existence of an employment relationship whenever there is home work.

**Greece** – Act No. 3846/2010 on job security guarantees and other provisions, section 1, provides that the agreement between the employer and the employee for the provision of services or work, for a fixed or indefinite period of time, especially in cases where work is paid by the piece, telework, home work, shall be presumed to disguise a dependent employment contract if such work is provided in person, exclusively or primarily to the same employer for nine consecutive months.

537. In one country, the law presumes that the worker is an employee in cases in which the person is provided with tools of the trade or work equipment by the other person. In one case, the law provides that the fact that the employer sells the materials to the homeworker for the purpose of transforming them into certain products that are in turn sold to that employer is proof of the existence of a labour contract for home work.

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715 For example, in Poland, while homeworkers are independent contractors under the Labour Code, they are considered to be employees for the social security system.
716 See, in this regard, CEACR – Bulgaria, C.177, observation, 2018.
717 For example, **Belgium** (Act of 3 July 1978 on labour contracts, as amended by the Act of 6 December 1996, section 119(1)), **Finland** (Employment Contracts Act, ch. 1, section 1), **Mauritius** (Employment Rights Act, section 5(6)(c)(c)) and **Peru** (Legislative Decree, Act on productivity and labour competitiveness, No. 728, section 88).
718 For example, **Brazil** (Consolidation of Labour Laws, section 6, establishes no distinction shall be made between work performed in the employer’s establishment, domestic work and remote work where the criteria for presumption of an employment relationship have been met) and **France** (Labour Code, section L7412-1, in respect of homeworkers, provides that there is no need to question: (a) whether there is a relationship of legal subordination between the homeworker and the giver of work, subject to the application of the provisions of section L. 8221-6; (b) whether she or he works under the immediate and habitual supervision of the giver of work; (c) whether the premises where the homeworker works and the equipment she or he uses, however significant, belong to the homeworker; (d) whether the homeworker procures accessory supplies for her or himself; and (e) the number of hours worked.
719 This provision establishes a presumption in favour of salaried employment and the burden of proof that it is not a dependent employment contract is shifted to the employer in any challenge to that presumption.
720 For example, **South Africa** (Labour Relations Act, No. 65 of 1995, section 200A).
721 For example, **Guatemala** (Labour Code, section 156) and **Paraguay** (Labour Code, section 136).
538. In certain countries, the law takes into account the economic dependency of the home-worker. Although this is not necessarily a determinant of an employment relationship in all cases, it may help the courts to decide.\textsuperscript{722} In other countries, the law specifies the criteria required to consider the existence of an employment relationship,\textsuperscript{723} or an employment contract.

\textit{Colombia} – The Labour Code, section 89, provides that an employment contract exists when a person habitually provides services for remuneration in her own home, alone or with the help of family members, on behalf of an employer.

539. On the contrary, other laws provide that homeworkers are independent workers.\textsuperscript{724} In some countries, even if considered as independent contractors, homeworkers (in some cases homeworkers only working in specific sectors) enjoy the same rights as employees.

\textit{Australia} – Under the Fair Work Act, section 12, the term “\textit{outworker}” means:

(a) an employee who, for the purpose of the business of his or her employer, performs work at residential premises or at other premises that would not conventionally be regarded as being business premises; or

(b) an individual who, for the purpose of a contract for the provision of services, performs work:

(i) in the textile, clothing or footwear industry; and

(ii) at residential premises or at other premises that would not conventionally be regarded as being business premises.

\textsuperscript{722} For example, \textit{Portugal} (Act No. 101/2009, section 1).

\textsuperscript{723} For example, \textit{Morocco}.

\textsuperscript{724} For example, \textit{Germany} (Homework Act, section 2) and \textit{Portugal} (Act No. 101/2009, section 1).
IV. Adopting, implementing and reviewing a national policy on home work

Article 3 of the Convention

Each Member which has ratified this Convention shall adopt, implement and periodically review a national policy on home work aimed at improving the situation of homeworkers, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations concerned with homeworkers and those of employers of homeworkers.

540. Convention No. 177 and Recommendation No. 184 are promotional. As such, the main requirement for ratifying States consists of the adoption, implementation and periodic review of a national policy on home work with the objective of improving the situation of homeworkers.

541. During the preparatory work, there were long discussions concerning the term “policy” and the scope of the national policy. As indicated by the ILO Legal Adviser at the time, there is no legal definition of policy in ILO instruments and the term “national policy” depends on the context in which it occurs in a given instrument. In the present case, the national policy should refer to homeworkers and their situation. The policy does not need to be a separate sectoral policy. It can be part of a broader existing labour policy or inserted in a general regulation. However, it has to aim specifically at improving the situation of homeworkers. This means that a national policy aimed at full, productive and freely chosen employment for all workers or a national equality agenda addressing all workers which does not specifically address the situation of homeworkers do not fulfil the requirements of the Convention. At the same time, the provision offers sufficient flexibility for countries that do not have national employment policies.

542. The national policy should be implemented by means of laws and regulations, collective agreements, arbitration awards or any other appropriate manner consistent with national practice (Article 5). The Committee however emphasizes that no specific form of policy is required by the instruments. The Committee further notes the strong parallels between the requirements established for the adoption of a policy on homeworkers and the national policy on employment, as provided for in Convention No. 122. The Committee also notes that the Recommendation contains several provisions relating to the rights of homeworkers, labour inspection and programmes related to home work that should be taken into consideration when adopting, implementing or reviewing the national policy on homeworkers to ensure coordination and coherence. The national policy should also take into account other more favourable international labour Conventions applicable at the national level, as provided in Article 10 of the Convention.

543. Moreover, the national policy can be implemented not only at the national level, but also at regional, provincial or local levels, depending on the national system and the authority that is competent to take action. Paragraph 3(1) of Recommendation No. 184 calls on each Member to designate an authority or authorities entrusted with the formulation and implementation of the national policy on home work. In some countries, the Ministry of Labour is the designated authority.

544. Article 3 of the Convention also highlights the importance of consultation in the formulation and implementation of the national policy. Tripartite bodies or organizations of workers and employers should participate in the formulation of the policy (Paragraph 3(2) of the Recommendation). They may be the same tripartite bodies, where they exist, that participate in the adoption of a national employment policy (see chapter I).

545. Acknowledging the isolation of homeworkers, Article 3 also refers to organizations concerned with homeworkers and organizations of employers of homeworkers. If there are no

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726 For example, in Argentina.
such organizations, arrangements should be made to permit these workers and employers to express their opinions on the national policy and the measures to implement it (Paragraph 3(3) of the Recommendation).

546. National policies and their implementation measures should be based on information and data compiled regularly at the national level. This information should be disaggregated by sex, reflect the main characteristics of home work and be publicly available (Paragraph 4 of the Recommendation). The Convention also contains provisions on the need to ensure that labour statistics include home work to the extent possible (Article 6) and that national laws and regulations on safety and health at work apply to homeworkers (Article 7).

The Confederation of Labour of Russia (KTR) indicates that it is difficult to evaluate the situation of homeworkers in the country due to the lack of statistics on the subject, including on complaints filed before the labour inspectorate.

547. The Committee notes that the country reports contain little information on the adoption and review of a national policy addressing the specific situation of homeworkers, including by countries that have ratified the Convention.

Pakistan – The Government of Punjab adopted the Punjab Home-Based Workers (HBWs) Policy. The Policy aims to develop strategies, plans and programmes to protect and promote the rights and benefits of HBWs. It reaffirms the principles of equality and non-discrimination, the elimination of exploitation, the empowerment of HBWs and freedom of association. Registration, fair wages and remedies for non-payment, equality of treatment and wages, implementation of health and safety standards, and terms and conditions of work for HBWs are some of the rights and entitlements covered by the policy.

548. Many reports indicate that there is no national policy specifically aimed at improving the situation of homeworkers.727 However, many reports provide information on the legal regime applicable to home work at the national level, including the various laws and regulations at different stages of development respecting the various aspects of home work and the protection of homeworkers. The reports also indicate how these measures are coordinated with the general legal framework applicable to all workers.728 The Committee notes that some reports refer in particular to the legal regime applicable to telework and, in a few cases, to digital platform work (the gig economy). Some reports indicate that intense work is being carried out on the legal and practical structure of contract models in the gig economy and the extent to which existing labour regulation is adequate for new digitally-based business models.729

549. The policy required by the Convention must be periodically reviewed.730 The review may coincide with that of the broader policy within which the home work policy is integrated. In this regard, the Committee notes that the legislation on home work is sometimes evaluated as part of a broader review of national laws and regulations with a view to ensuring the effective protection of workers in an employment relationship, as called for by Recommendation No. 198.731

550. Noting the indication by some governments that their national employment policy covers all workers, including homeworkers,732 the Committee recalls that, in the comments it has made on the application of Convention No. 177 over the years, it has often requested ratifying Members to provide information on the adoption of a national policy specifically aimed at improving the situation of homeworkers.

727 For example, Bosnia and Herzegovina, Botswana, Estonia, Gabon, Ghana, Kiribati and Republic of Korea.
728 For example, Ecuador, Finland, Germany, Mauritius, Morocco, New Zealand and Norway.
729 For example, Germany and Jamaica.
730 See, for example, CEACR – Belgium, C.177, direct request, 2018.
731 For example, the reports from Finland and Latvia.
732 For example, Guatemala, Ireland and Latvia.
CEACR – In its comments concerning Albania, the Committee considered that the legislation does not elaborate further … on home-based work, and requested the Government to provide additional information on any consultations that may have so far been undertaken with the social partners in order to discuss the adoption and implementation of a national home work policy, having also regard to the requirements of Articles 6 and 8 of the Convention regarding the need to ensure equality of treatment between homeworkers and other wage earners and effectively protect homeworkers' rights through a system of inspection and sanctions.733

CEACR – In its comments concerning Ireland, the Committee pointed out that … while teleworkers may be on the professional end of the scale, in their great majority skilled salaried employees with tertiary level qualification, more traditional forms of home-working involving low-paid, casual jobs and poor working conditions on the verge of the underground economy still exist and need to remain within the focus of Government's attention734

551. The national policy should concern all categories of homeworkers.

552. The Committee notes that several governments have provided information on the consultations carried out concerning the policy on home work. Some specifically refer to the increased interest of the social partners in issues relating to home work, and particularly the protection of rights, conditions of work and remuneration.735 Some refer to current consultations,736 and in particular to discussions held concerning self-employment and informality in the framework of home work.737 Others indicate that there is an established mechanism to consult all workers, including homeworkers.738 Some provide information on consultations with the social partners, including in some cases with the participation of homeworkers’ organizations, concerning the determination of homeworkers' remuneration.739 Some governments indicate that consultations were carried out when adopting new legislation on home work, and particularly telework.740 Some indicate that there are no trade unions or employers’ organizations specifically concerned with home work.741 Others provide specific information on the collective agreements concluded on home work and telework.742

In 2017, the Estonian Trade Union Confederation and the Estonian Employers' Confederation signed an agreement setting out the main rules for teleworking, which contains ten recommendations on this type of work. Following the agreement, the Government prepared a proposal to adapt the legislation.

733 CEACR – Albania, C.177, direct request, 2011. See also CEACR – Bosnia and Herzegovina, C.177, direct request, 2018; Bulgaria, C.177, observation, 2018; Netherlands, C.177, direct request, 2018; and Tajikistan, C.177, direct request, 2016.
734 CEACR – Ireland, C.177, direct request, 2011.
735 For example, Algeria.
736 For example, Cameroon.
737 For example, Bulgaria.
738 For example, Belgium (Act of 5 December 1968 on joint committees and collective labour agreements, section 2), Germany, Ghana, Islamic Republic of Iran and Ireland.
739 For example, Argentina and Austria.
740 For example, Azerbaijan, Canada, Croatia (concerning the new Labour Code in 2014), Morocco (relating to the new Labour Code), Philippines, Qatar, Spain, Thailand and United Kingdom.
741 For example, Croatia, Democratic Republic of the Congo and Latvia.
742 For example, Belgium (Collective Labour Agreement No. 85 on telework concluded on 9 November 2005 in the National Labour Council. As part of this agreement, the social partners wanted this agreement to regulate all the specific terms and conditions relating to telework at home).
V. Ensuring equality of treatment

Article 4 of the Convention

(1) The national policy on home work shall promote, as far as possible, equality of treatment between homeworkers and other wage earners, taking into account the special characteristics of home work and, where appropriate, conditions applicable to the same or a similar type of work carried out in an enterprise.

(2) Equality of treatment shall be promoted, in particular, in relation to:
(a) the homeworkers’ right to establish or join organizations of their own choosing and to participate in the activities of such organizations;
(b) protection against discrimination in employment and occupation;
(c) protection in the field of occupational safety and health;
(d) remuneration;
(e) statutory social security protection;
(f) access to training;
(g) minimum age for admission to employment or work; and
(h) maternity protection.

553. Ensuring equality of treatment “as far as possible” between homeworkers and other wage earners is the second main objective of Convention No. 177 and Recommendation No. 184. The term “wage earners” was preferred over the term “workers in the enterprise”, with a view to broadening the comparison between the situation of workers working at home and that of other salaried workers.743 Such a comparison has to take into account the special characteristics of home work and, as appropriate, the conditions applicable to the same or a similar type of work carried out in an enterprise. Thus, this comparison goes beyond workers in the enterprise and extends to other wage earners in general, as well as recognizing the fact that the circumstances in which homework is carried out do not make it possible to achieve full equality of treatment in all circumstances. It is also necessary to bear in mind the variety in types of home work and the sectors in which it occurs, as well as the incidence of each of the various forms of home work in each country and region.

554. It is important to bear in mind that Convention No. 177 does not affect more favourable provisions applicable to homeworkers under other international labour Conventions (Article 10). The Committee also wishes to recall that nothing in the Convention prevents the application of more favourable conditions at the national level. The Committee acknowledges, in this regard, that many national laws and regulations ensure equality of treatment between homeworkers and other workers in the country, as recalled by many governments in their reports.744 Some reports specify that the principle of equality of treatment and non-discrimination is also applicable to teleworkers.745

555. Article 4(2) of the Convention enumerates specific areas in which equality must be promoted, including freedom of association, protection against discrimination in employment and occupation, occupational safety and health, remuneration, social security, training, minimum age for admission to employment and maternity protection. Paragraph 27 of the Recommendation adds that homeworkers should benefit from the same protection as that provided to other workers with respect to termination of employment.

744 For example, Argentina, Armenia, Azerbaijan, Belgium, Burkina Faso, Colombia, Costa Rica, Chile (draft legislation) and Poland.
745 For example, Colombia, Chile (draft legislation) and Poland.
4. Home Work

1. Homeworkers right to establish or join organizations of their own choosing and to participate in the activities of such organizations

556. In recognition of the particular situation of isolation of homeworkers, Recommendation No. 184 provides that any restriction or obstacle to the enjoyment of the right to organize and to bargain collectively should be eliminated through the national policy on homework (Paragraphs 11 and 12).

557. The Committee has requested information on the manner in which it is guaranteed, in law and practice, that homeworkers are not subject to discrimination in relation, among other matters, to freedom of association. The Committee has also noted cases in which the working conditions of homeworkers are regulated by collective bargaining.

CEACR – In its comments concerning Belgium, the Committee has noted the Government’s indication that, in certain joint commissions that still recognize “traditional” homework, collective labour agreements establish the same hours of work for such homeworkers as for other workers.

558. The Committee notes the indication of many governments that the national legislation respecting the right to freedom of association is also applicable to homeworkers, or at least does not exclude them from this right.

559. The issue of access to the houses of homeworkers has to be taken into account when examining whether the right of association is ensured and enjoyed, and measures should be taken to ensure that homeworkers are informed of their right to join the unions of their own choosing, or establish new ones and to have direct contact with their union representatives. Other reports refer to the right of teleworkers to join trade unions.

The NZCTU indicates that the right of homeworkers to have access to representation and to organize are restricted by provisions in the Employment Relations Act 2000 (section 19) which exclude union access to dwelling houses.

2. Protection against discrimination in employment and occupation

560. With regard to equality of treatment and protection against discrimination, the Committee notes that most governments indicate that the general legislation on equality is applicable to homeworkers. Measures should be taken in the framework of the national policy on homework, as provided for in Article 4(2) of the Convention to ensure that homeworkers enjoy equality of opportunity and treatment. To achieve this, it is crucial for them to have access to vocational education and training programmes (Paragraph 29(d) of Recommendation No. 184), as well as to information on their working conditions and rights, and the identity

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746 See, for example, CEACR – Ireland, C.177, direct request, 2011.
747 See, for example, CEACR – Belgium, C.177, direct request, 2018.
748 ibid.
749 For example, Algeria (Act No. 90-14), Austria, Belgium (the Act of 5 December 1968 on joint commissions and collective labour agreements also applies to homeworkers (section 2)), Cyprus (article 21 of the Constitution and the Trade Union Law of 1965), Denmark (Act on freedom of association), Egypt, Germany (Basic Law, section 9), Jamaica (Labour Relations and Industrial Disputes Act, 1975), Panama, Senegal, Sri Lanka (Trade Union Ordinance), Sweden (Constitution and the Employment (Co-determination in the Workplace) Act) and United Kingdom.
750 For example, Malta.
751 For example, Cabo Verde (section 5 of Legislative Decree No. 11/2018 of 5 Dec. 2018, which sets out the regime regulating homework, in conjunction with sections 36 et seq. of the Labour Code).
752 For example, Austria, Belgium, Cabo Verde, Denmark, Egypt, Georgia, Germany, Malta, Poland, Senegal, Slovakia, Sri Lanka, Sudan, Sweden, Thailand and United Kingdom.
of their employer or intermediaries. The Committee considers that homeworkers should not be prevented from accessing opportunities for career transition and progression within and outside the enterprise.

3. Minimum age for admission to employment or work

561. In recognition of the fact that in practice homeworkers are often assisted by members of their families, including children, both Convention No. 177 and Recommendation No. 184 contain provisions on the minimum age for admission to employment or work. The family members concerned may be underage children, who may be forced to drop out of school or may be overburdened with work and studying. For this reason, Convention No. 177 provides in Article 4(2)(g) that equality of treatment shall be promoted in relation to the minimum age for admission to employment or work. Thus, the general rules on minimum age applicable to other wage earners should also apply to homeworkers. Recommendation No. 184 adds in Paragraph 10 that national laws and regulations concerning minimum age for admission to employment or work should also apply to homework.

CEACR – In its comments concerning Thailand, the Committee has noted that the Home Workers Protection Act of 2010 prohibits the assignment of children below the age of 15 years to carry out “homework” which by its nature may be hazardous to their health and safety.753

4. Occupational safety and health

562. Occupational safety and health gives rise to specific challenges in the case of homework. The fact that it is carried out in the worker's house or in a place of her or his choice makes control by the public authorities and the employer more difficult, as there is a need to balance the exercise of control with the right to the worker's privacy. That does not mean that homeworkers do not have the same entitlement as other workers to occupational safety and health protection. Convention No. 177 provides in Article 7 that national laws and regulations on safety and health at work shall also apply to homework, taking account of its special characteristics, and shall establish conditions under which certain types of work and the use of certain substances may be prohibited in homework for reasons of safety and health.754

563. The majority of reporting governments indicate that occupational safety and health regulations are applicable to homeworkers. Some national laws and regulations explicitly prohibit the use in homework of certain toxic or dangerous products that may harm the worker's health.755

754 During the preparatory work for the homework instruments, it was suggested by several workers’ organizations that the dangerous substances, processes or activities and equipment to be prohibited for homeworkers should be specified. However, in view of the broad variety of homework and the context in which it is carried out, this was considered very difficult to do. See, in this regard, ILO: Home work, Report V(2), 1995, op. cit., p. 117.
755 For example, Algeria (Executive Decree No. 97–474, section 7), Austria (the 1983 Regulation prohibiting the use of hazardous substances or preparations within homeworking, BGBl178/1983), Italy (Act No. 877/1973, section 2), Poland (Regulation of the Council of Ministers of 31 December 1975, section 22) and Thailand (Homeworkers Protection Act 2010, sections 21 and 22).
Thailand – The Homeworkers Protection Act 2010, section 21, prohibits the engagement of homeworkers to carry out the following types of work:

1. work involving hazardous materials pursuant to the law governing hazardous materials;
2. work that is to be carried out with the use of tools or machines, vibration of which may be hazardous to the persons performing the work;
3. work involving extreme heat or coldness which may be hazardous;
4. other work which may affect health, safety or quality of the environment. The nature or type of work referred to under (2), (3) or (4) shall be those prescribed in the ministerial regulations.

Section 22 provides that it is forbidden for a hirer to procure or deliver raw materials, equipment or other inputs used for the performance of work that are hazardous to homeworkers, residents of the house, business visitors, including neighbouring communities and the environment.

564. In other countries, the legislation establishes the same protection in this respect as for workers in the enterprise. Recommendation No. 184 indicates in this respect that the competent authority should ensure the dissemination of guidelines concerning the safety and health regulations and precautions that employers and homeworkers are to observe. Where practicable, these guidelines should be translated into languages understood by homeworkers (Paragraph 19). Employers should also contribute to ensuring the safety and health of homeworkers.

Malta – The General Provisions for Health and Safety at Work Places Regulations provide in Regulation 10 that it shall be the duty of every employer to carry out or to ensure that is carried out, a suitable, sufficient and systematic assessment of all the occupational health and safety hazards which may be present at the place of work and the resultant risks involved concerning all aspects of the work activity. According to the Government, the Regulations are applicable to homeworkers.

565. Recommendation No. 184 indicates that employers “should be required to: (a) inform homeworkers of any hazards that are known or ought to be known to the employer associated with the work given to them and of the precautions to be taken, and provide them, where appropriate, with the necessary training; (b) ensure that machinery, tools or other equipment provided to homeworkers are equipped with appropriate safety devices and take reasonable steps to ensure that they are properly maintained; and (c) provide homeworkers free of charge with any necessary personal protective equipment” (Paragraph 20).

566. The maintenance of equipment may be a problem because employers do not always have access to the worker’s home. These are details that can be arranged between the parties, provided it is clear that employers are held responsible for the maintenance of the equipment they provide. Homeworkers may, for example, notify the employer when the equipment needs attention or have it serviced at the cost of the employer.
4. Home Work

The Recommendation adds that homeworkers “should be required to: (a) comply with prescribed safety and health measures;” and “(b) take reasonable care for their own safety and health and that of other persons that may be affected by their acts or omissions at work, including the proper use of materials, machinery, tools and other equipment placed at their disposal” (Paragraph 21). Homeworkers should have the right to refuse to carry out work which they have reasonable justification to believe presents an imminent and serious danger to their safety or health and should be protected from any undue consequences of such a refusal in a manner consistent with national conditions and practice. Homeworkers should report the situation to the employer without delay (Paragraph 22(1)). In the event that the labour inspector or another public safety official determines the existence of an imminent and serious danger to the safety or health of a homeworker, his or her family or the public, the continuation of homework should be prohibited until appropriate measures have been taken to remedy the situation (Paragraph 22(2)). The Government, in cooperation with social partners, should promote and support programmes which improve homeworkers’ safety and health such as by facilitating their access to equipment, tools, raw materials and other essential materials that are safe and of good quality (Paragraph 29(1)(f)).

Some governments have provided information on occupational safety and health regulations relating to telework and the requirement to conduct a risk assessment at the worker’s house. The right to disconnect also needs to be taken into account in relation to telework and occupational safety and health.

With reference to the variety of types of work that can be carried out in the context of homework, and particularly telework and digital work, the Committee also considers it important to examine the special characteristics of certain forms of work and their impact on the health of workers. In particular, any digital platform work that consists of the processing of thousands of violent or pornographic images or films may have a seriously damaging impact on the mental health of workers. While recognizing the difficulties involved, the Committee considers that this type of work should be subject to particular scrutiny by the public authorities. Particular attention is required concerning child labour and the serious risks to which children are exposed in this type of work. The Committee further considers that international collaboration between public supervisory authorities can contribute to the development of good practices in this regard.

5. Equal remuneration

Homeworkers are generally paid on a piece-rate basis. During the preparatory work for the homework instruments, it was acknowledged that this method of payment tends to result in significantly lower wages than those paid to workers in the workplace. This in turn gives rise to other labour issues, such as excessively long working hours and the employment of unpaid and often underage “assistants”.

The causes of the low pay of homeworkers are multiple, but generally have their origins in the fact that the majority of homeworkers are women, they come from the poorest levels in society and are isolated, sometimes in remote areas, are often in the informal economy and are faced with great fluctuations in demand. This all places homeworkers in a weak bargaining position, forcing them to accept the wages on offer without complaining or seeking a better rate.

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761 For example, Croatia (Labour Act, section 5) and Italy.
762 For example, Belgium (collective agreement No. 85), Chile (to be covered by draft legislation) Germany (Workplace Ordinance (ArbStättV), section 1(3)), Japan (Guidelines for the appropriate performance of self-employed telework) and Poland (Labour Code, section 67).
763 See General Survey of 2017, paras 746 et seq.
765 ibid., p. 19.
572. The Committee acknowledges that even if the piece rate paid to homeworkers is similar or the same as the wages paid to workers in the enterprise and even if it respect minimum wage provisions, in practice they normally earn less than their counterparts on the premises of the enterprise. One reason is that their work is often more difficult to carry out (complex embroidery or difficult pieces, for example). They also have to perform all the types of work that are normally assigned to different persons in the enterprise, which reduces the possibility for them to produce more. For example, they normally have to receive and unpack the materials, wrap and deliver the products. Moreover, they have to pay all the maintenance costs of the workplace (water and electricity), and pay is discounted for any products that do not meet the quality requirements. In many cases, they also have to pay for the materials. The employer is generally responsible for all of these elements in the enterprise, while in the case of homework the costs are transferred to the homeworker. Whenever there is a chain of intermediaries or subcontractors, income tends to be subdivided even more.766

573. The issue of remuneration is closely linked to the time required to complete a product. Employers may tend to estimate the time needed to produce a product on the basis of the work performed in the enterprise, where workers are assigned very specific tasks which are distributed among them based on their skills. In the case of homework, it is often the case that the additional tasks that need to be carried out by homeworkers are not taken into account when fixing the rate for each piece.

574. Recommendation No. 184 addresses all these issues with the objective of promoting, as far as possible, equality of treatment between homeworkers and other wage earners, taking into account the special characteristics of homework, as outlined in Convention No. 177 (Article 4). To ensure equality of treatment, their conditions of work need to be compared with those applicable to the same or a similar type of work carried out in an enterprise. It may be appropriate to take into account the remuneration paid to workers in the employer’s enterprise for the same or a similar type of work. In order to get closer to the situation of workers in the factory, the Recommendation envisages that the pay of homeworkers may be based on a wage or by the piece.

575. The first of the provisions contained in Recommendation No. 184 is intended to ensure that minimum rates of wages are fixed for homework, in accordance with national law and practice (Paragraph 13). This is different from applying the minimum wage to homework, which was opposed by the Employer members and some governments during the preparatory work. The reasons given for this opposition were that the instruments do not only apply to workers in an employment relationship and that many countries do not have a minimum wage.767 The provision is therefore applicable to the various existing systems, whether or not there is a minimum wage.

576. The Recommendation then indicates that rates of remuneration should be fixed preferably by collective bargaining. If that is not possible, they should be fixed by the national authority (after consulting the most representative organizations of employers and workers, as well as organizations concerned with homeworkers and employers of homeworkers, or at least with representatives of homeworkers and of employers of homeworkers), or through other appropriate wage-fixing machinery at national, sectoral or local levels (Paragraph 14(1)). Where none of these methods are possible, the rates of remuneration should be fixed by agreement between the homeworker and the employer (Paragraph 14(2)).

577. If the homework is paid by the piece, the rate of remuneration should be comparable to that received by a worker in the enterprise of the employer, or if there is no such worker, in another enterprise in the branch of activity and region concerned (Paragraph 15).

766 ibid., p. 22.
578. The Recommendation also aims to ensure that homeworkers do not have to bear all the additional costs outlined above so that their situation can be assimilated insofar as possible with that of workers in the enterprise. It indicates in Paragraph 16 that homeworkers should receive compensation for costs incurred in connection with their work, such as those relating to the use of energy and water, communications, maintenance of machinery and equipment. They should also receive compensation for time spent in maintaining machinery and equipment, changing tools, sorting, unpacking and packing, and other such operations.

579. The Recommendation adds that national laws and regulations concerning the protection of wages should apply to homeworkers. These laws and regulations should ensure that pre-established criteria are set for deductions and should protect homeworkers against unjustified deductions for defective work or spilt materials. Payments should be made either on delivery of each completed work assignment or at regular intervals of not more than one month (Paragraph 17).

580. Several governments have provided information on the system of remuneration of homeworkers. Some of them indicate that the same rules that apply to other workers in the same sector are applicable to homeworkers,768 and that remuneration cannot be lower than the general minimum wage, where it exists,769 or than the wage of workers in the enterprise premises engaged in similar or the same work.770 In some countries, there is a specific minimum wage for homeworkers.771 In certain cases, these rules apply specifically to teleworkers.772 In other countries, the minimum wage rules are not applicable to homeworkers.773 Some governments specify that the principle of equal remuneration for work of equal value is also applicable to homeworkers.774

581. In some countries, the remuneration of homeworkers is fixed on a piece-rate basis.775 The labour legislation in certain countries specifies that the remuneration of homeworkers can be fixed on a piece-rate basis, or on a weekly or monthly basis.776 Some national laws make specific reference to the possibility to make deductions from remuneration, for example in the case of defective work, and in some cases the law establishes limits for such deductions.777 In other cases, deductions of this type are prohibited.778

582. In general, rules respecting working time are difficult to apply to homeworkers.779 Although, in theory, they can work when they want, they seldom benefit from weekends or holidays. As they are paid on a piece-rate basis, and their earnings are low, they often have to accept more work than they are able to perform during normal working hours. Sometimes, the employer makes very unrealistic calculations of the time needed for production. Besides,

768 For example, Algeria, Austria (through collective agreements), Belgium, Cyprus, Denmark, Germany (through collective bargaining) and Thailand (Homeworkers Protection Act, section 16).
769 For example, Algeria, Japan (Industrial Homework Act, articles 8, 14 and 16) and United Kingdom.
770 For example, Costa Rica, Croatia, Guatemala and Honduras.
771 For example, Mexico (Labour Code, section 322).
772 For example, Colombia (Act No. 1221 of 2008, section 6).
773 For example, Sri Lanka.
774 For example, Bulgaria, Cabo Verde, Central African Republic, Jamaica, Latvia, Malta and Senegal.
775 For example, Ecuador (Labour Code, section 16), Germany (HAG, section 20), Hungary (Labour Code, section 198), Italy (Act No. 877/1973, section 8, provides that increases shall be determined by collective bargaining, which shall also provide for the 13th month, leave, public holidays and the reimbursement of costs, with payment due when the work is returned), Nicaragua (Labour Code, section 158), Paraguay (Labour Code, section 258) and Poland (Regulation of the Council of Ministers of 31 December 1975, section 12).
776 For example, Central African Republic, Costa Rica (Labour Code, section 112), Guatemala (Labour Code, section 159), Honduras (Labour Code, section 170), Mauritius (First Schedule to the Employment Rights (Working from Home) Regulations 2019) and Peru (Labour Code, section 90).
777 For example, Costa Rica (Labour Code, section 111), Honduras (Labour Code, section 169, permitting a 10 per cent deduction) and Peru (Labour Code, section 90; no more than 25 per cent of monthly remuneration when the worker is responsible for the loss or deterioration).
778 For example, Ecuador (Labour Code, section 281).
due to the particular organization of work in supply chains, with very short deadlines, they are also under great pressure to work more rapidly. Employers may modify orders, or even reduce or withdraw them, depending on market fluctuations.

583. During the preparatory work for the homework instruments, many Employers’ and Government delegates considered that placing limitations on the working time of homeworkers would remove the principal advantage of homework, namely flexibility in relation to working hours. Some of them considered that this should be left to collective bargaining. The view was also expressed that the conditions of homework and the technology used in some cases make it difficult to regulate and control.780

584. Recommendation No. 184 outlines some protections for homeworkers in relation to working time, even if they are often difficult to control. For example, Paragraph 23 indicates that a deadline to complete a work assignment should not deprive a homeworker of the possibility to have daily and weekly rest comparable to that enjoyed by other workers. In recognition of the difficulties inherent in endeavouring to impose the same rules on homework as in other sectors of the economy with respect to paid holidays and paid sick leave, particularly if homeworkers are not recognized as employees, the Recommendation indicates that the conditions under which homeworkers should be entitled to benefit, as other workers, from paid public holidays, annual holidays with pay and paid sick leave should be left to national laws and regulations (Paragraph 24).781

585. The Committee notes the indication by some governments that the national rules respecting working time are not applicable to homeworkers.782 The view was also expressed that homework is paid on a piece-rate basis because it is not possible to control working time.783 Some governments indicate that the issue is not regulated at the national level,784 while others report that the general rules on working time, daily and weekly rest are also applicable to homework, particularly if homeworkers are in an employment relationship.785 In some countries, national law provides that efforts have to be made to ensure that the working time of homeworkers is similar to that of workers in the enterprise.786 In certain countries, the law provides that, in the case of homework, delivery and waiting time shall be counted as working time.787

586. In the case of telework, regulations in some countries provide that the telework agreement shall stipulate the hours of work,788 or that the general rules on working time are applicable to teleworkers.789 In one case, a maximum of working hours a week is specified, but in any case the hours worked should be similar to those applicable in the trade or business in general.790

587. In some countries, the law specifies that, while working time and rest periods are organized by homeworkers at their discretion, they are entitled to public holidays and leave.791 The regulations in some countries establish minimum rest periods.792

781 ibid., p. 129.
782 For example, Belgium (although limitations can be established through collective bargaining), Chile, Finland, Paraguay, Slovakia and Spain.
783 Report of the Government of Italy.
784 For example, Panama.
785 For example, Armenia, Austria, Bosnia and Herzegovina, Cambodia, Colombia, Cyprus, Denmark, Dominican Republic, Ecuador, El Salvador, Greece, Guatemala, Mexico, Montenegro, Nepal, New Zealand, Norway, Philippines, Sweden and Bolivarian Republic of Venezuela.
786 For example, Japan (for industrial homework).
787 For example, Paraguay.
788 For example, Belgium.
789 For example, Ecuador, Japan and Spain.
790 For example, Mauritius (Employment Rights (Working from Home) Regulations 2019).
791 For example, Ukraine (Leave Act No. 504/96-VR).
792 For example, United Arab Emirates.
588. In certain cases, although no explicit limitations are placed on the working time of homeworkers, the law requires employers to take into account the physical and mental capacities of homeworkers to avoid or reduce safety and health hazards due to excessive workload.793 Similarly, in some cases the law prohibits giving out an amount of work and setting deadlines that have a negative impact on the entitlement of homeworkers to daily, weekly or annual periods of rest.794 In some cases, it is prohibited to allocate or deliver homework on Sundays or public holidays,795 or to allocate to homeworkers a greater volume of work than a full-time member of staff would do during normal working hours.796

Mauritius – The Employment Rights (Working from Home) Regulations 2019, First Schedule, provides that:

(2) the hours of work of a homeworker – (a) shall not be less favourable than the hours of work prescribed in any enactment or specified in an agreement, as the case may be, applicable to the trade or business in which the homeworker is in employment; or (b) shall be as agreed between the employer and the homeworker where the homeworker is required to work lesser number of hours.

(3) Where a homeworker is required to work on flexible hours – (a) the work allocated to him shall be performed and completed within a bandwidth to be agreed with his employer; (b) the homeworker shall be available during the core hours of work to be agreed with his employer for work-related communication.

(4) The hours of work of a homeworker shall include time spent – (a) to collect work and materials; (b) to deliver completed work; (c) waiting at home for working tools and equipment to be repaired or maintained; (d) waiting at home for work to be delivered or otherwise assigned; (e) waiting for the employer to provide work; (f) waiting for instructions to be given over the phone or otherwise; (g) to attend meetings with the employer or his clients for business-related purpose.

(5) A homeworker shall, after completion of his normal day’s work, be entitled to a rest period of not less than 11 consecutive hours before resuming work.

(6) A homeworker shall, in every working day, be entitled to an in-work rest break of one hour without pay to be taken at his discretion where he performs not less than four consecutive hours of work.

589. National law and practice also vary with regard to paid public holidays, paid annual leave and paid sick leave. In some cases, the same rules apply to homeworkers as to other workers.797 In some cases, homeworkers benefit from specific paid leave or leave indemnities for certain days,798 and in some cases these provisions are applicable after a threshold period of work.799 The legislation in certain countries explicitly excludes recognition of indemnities for work on public holidays.800 Some reports indicate that the applicable rules in this respect depend on the sector.801

793 For example, Finland.
794 For example, Croatia (Labour Act, section 17(17)).
795 For example, Austria (Homework Act, section 12).
796 ibid, section 14.
797 For example, Austria, Cambodia (if the workers are in an employment relationship), Colombia, Croatia, Cyprus (sick leave is conditional on agreement with employer), Denmark, Ecuador, Greece (if the workers are in an employment relationship), Montenegro, New Zealand, Norway, Portugal, Senegal, Sweden, United Kingdom and Bolivarian Republic of Venezuela.
798 For example, Finland.
799 For example, Algeria.
800 For example, El Salvador.
801 For example, Trinidad and Tobago.
6. Statutory social security and maternity protection

590. Recommendation No. 184 provides that homeworkers should benefit from social security. It contemplates several options in this regard, including: extending existing social security provisions to homeworkers; adapting social security schemes to cover homeworkers; or developing special schemes or funds for homeworkers (Paragraph 25). The Committee notes that in their reports, many member States indicated that the general rules applicable to other categories of workers are also applicable to homeworkers. In some cases, however, homeworkers are excluded from some specific benefits. In a number of countries, homeworkers are considered as self-employed workers and, as such, are entitled to social security. Some member States expressly acknowledge the high level of informality prevalent in this sector.

591. Recommendation No. 184 also provides that national laws and regulations in the field of maternity protection should apply to homeworkers (Paragraph 26). Some governments report that national legislation extends maternity protection to homeworkers.

CEACR – In its comments concerning the Netherlands, the Committee noted the observations from the FNV, CNV and VCP, who express the view that women homeworkers should be entitled to maternity leave regardless of their employment status. The FNV urges the Government to look into this problem and, at a minimum, extend the maternity leave allowance for self-employed workers to homeworkers. In its response, the Government indicates that homeworkers are entitled to the same maternity protection coverage under the labour legislation as other wage earners, but does not specify the relevant legal provision. The Committee notes the benefits stated by the Government and acknowledges its full reply.

7. Access to training

592. Recommendation No. 184 calls for programmes to be promoted and supported which provide training for homeworkers. The training should be provided as close as practicable to the workers’ home and should not require unnecessary formal qualifications (Paragraph 29(1) (d) and (e)). Measures of this kind could also be applied to digital platform workers. Some governments indicate that, although homeworkers benefit from equal rights with respect to access to training, no requests for training are received from them.

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802 For example, Algeria, Argentina, Austria, Belgium, Cabo Verde, Denmark, Egypt, Gabon, Germany, Guatemala, Jamaica, Panama, Peru, Senegal, Sweden and Thailand.
803 For example, in Italy, pursuant to section 9 of Act No. 877/1973, current regulations for employees concerning social insurance and family allowances apply to homeworkers, with the exception of wage subsidies. Homeworkers are entitled to the following benefits: old-age, disability and survivors’ pensions; sickness benefit; maternity benefit; unemployment benefit (not payable for inactive periods between one commission and the next); workplace accident and occupational disease benefit; wedding leave allowance; household allowance; and mobility benefit.
804 For example, Malta (under the Social Security Act, homeworkers are insured for all benefits listed under art. 3(1) of Regulation (EC)833/2004).
805 For example, Argentina.
806 For example, Guatemala.
807 CEACR – Netherlands, C.177, direct request, 2018.
VI. Registration and records

593. Paragraph 6 of the Recommendation calls for the registration by the competent authority at national level, and where appropriate at the regional, sectoral or local levels, of the employers of homeworkers and of any intermediaries used by such employers. The authority should specify the information that employers are required to submit or keep at the authority’s disposal.

594. The registration of employers and intermediaries makes it possible to collect data relevant for the implementation of the Convention, and gives more visibility to companies that use home work. Paragraph 7 of the Recommendation outlines some requirements that should be established for employers of homeworkers:

(1) to notify the competent authority when they give out home work for the first time;
(2) to keep a register of all homeworkers, classified by sex;
(3) to keep a record of work assigned to a homeworker showing:
   - the time allocated;
   - the rate of remuneration;
   - the costs incurred by the homeworker and the amount reimbursed;
   - any deductions made in accordance with national laws and regulations;
   - the gross remuneration due and the net remuneration paid, with the date of payment.
(4) a copy of this record should be provided to the homeworker.

595. At the national level, some systems require all employers (including employers of homeworkers) to register, without any distinction as to whether they hire workers or homeworkers.\textsuperscript{808} There is sometimes a specific requirement for employers of homeworkers to register,\textsuperscript{809} or to obtain a licence, which has to be renewed periodically.\textsuperscript{810} The information registered includes the name and address of homeworkers, the quantity and type of work allocated, and remuneration.

596. The requirement of notification when giving out home work for the first time is not a request for a permit, but rather a means of informing employers of the regulations applicable to homeworkers and updating the register of givers of home work. Some national regulations require the employer to notify or register the first time that home work has been allocated to a worker.\textsuperscript{811} In other cases, the law requires the employer to communicate the first allocation of work to the relevant health insurance provider.\textsuperscript{812}

\textit{Argentina} – Act No. 12713, section 17, provides that the competent authority shall be responsible for registering givers of work, organizing the register of employers and workers, in which the persons, companies, associations, intermediaries associations and others involved in this form of work shall be recorded.

\textsuperscript{808} For example, Armenia, Belgium, Bosnia and Herzegovina (Federation of Bosnia and Herzegovina), Cambodia, Cyprus, Finland, Greece, Honduras, Kiribati, Latvia, Mauritius and New Zealand.

\textsuperscript{809} For example, Algeria (Executive Decree No. 97-474, section 4), Costa Rica (Labour Code, section 110) and Ecuador (Labour Code, section 277).

\textsuperscript{810} For example, \textit{Dominican Republic} (Labour Code, section 272).

\textsuperscript{811} For example, \textit{Germany} (Homework Act, section 6).

\textsuperscript{812} For example, \textit{Austria} (Homeworking Act, section 5).
597. Under other legal regimes, the registration of the labour contract is required.813 In some other cases, the law requires both the employer of homeworkers and homeworkers themselves to register with the competent authority,814 while in other cases there is no requirement to register.815

598. In many legal systems, employers are required to keep a record of homeworkers. In some cases, in addition to personal data concerning the homeworker, the employer is also required to keep a record of the amount of work given, the price of the materials, dates of delivery of materials and the final product, and the remuneration paid.816

Ireland – The Organisation of Working Time Act 1997, section 32, provides that: “(1) An employer who employs any outworkers shall keep, in the prescribed form, a register in which he or she shall cause to be entered prescribed particulars in respect of each such worker for the time being employed by him or her.”

599. In some countries, workers are provided with workbooks, or copies thereof, containing certain prescribed information on, for example: wages paid, type and quantity of work handed out and completed, dates of delivery, materials received and handed back and, in some cases, the terms and conditions of employment. The workbook is sometimes provided by the employer, and sometimes by the competent authority.817

600. Paragraphs 6 and 7 of the Recommendation amount to considerable progress in making homeworkers and their employers more visible and facilitating inspection and supervision. The information collected by the employer on the homeworker is included in the information that has to be kept at the authority’s disposal.

601. Intermediation is generally undertaken by private employment agencies or temporary work agencies, which have to be registered or authorized, or report regularly to the competent authority.818 Some reports specify that the intermediary, as a representative of the employer, needs the authorization of the labour inspectorate. In some cases, the law also requires the registration of the labour contract concluded with the intermediary agency.819

813 For example, Bosnia and Herzegovina (Republika Srpska), Estonia and Peru (Law on Productivity and Labour Competitiveness Act (LPCL), section 91). This is also the case in Chilé under the Bill on remote work.
814 For example, Italy (Act No. 877/1973, sections 3 and 4), Switzerland (Act on home work, section 10).
815 For example, Gabon, Japan, Sweden and Thailand.
817 For example, Algeria (Executive Decree No. 97–474, section 6), Argentina (Act No. 12713, section 7), Dominican Republic (Labour Code, section 271), Ecuador (Labour Code, section 276), Honduras (Labour Code, section 168), Japan (Industrial Homework Act, section 3), Nicaragua (Labour Code, section 158), Paraguay (Labour Code, section 138), Peru (Legislative Decree, Law on Productivity and Labour Competitiveness, No. 728, section 92) and Bolivarian Republic of Venezuela (LOTTT, section 215).
818 For example, Greece, Hungary, Republic of Korea, Morocco, Peru, Philippines, Poland, Sri Lanka, Suriname and Turkey.
819 For example, Senegal (Decree No. 2009-1412).
7. Provision of information

602. As indicated in Paragraph 5 of the Recommendation, homeworkers should be kept informed of their specific conditions of employment in writing or in any other appropriate manner consistent with national law and practice. This information should include, in particular: (a) the name and address of the employer and the intermediary, if any; (b) the scale or rate of remuneration and the methods of calculation; and (c) the type of work to be performed.

603. This provision is very flexible and does not require a written contract. What is important is for homeworkers to be provided with adequate information on their employer and the intermediary with whom they are working, as well as their conditions of employment. Paragraph 30 adds that, where practicable, information and programmes for homeworkers should be provided in languages understood by homeworkers, in recognition of the fact that many homeworkers are migrant workers, often in an irregular situation, who opt to work from home to hide from the authorities. Similarly, in the case of home work in global supply chains, in which enterprises operate across borders, such a requirement helps to ensure that homeworkers at the end of the chain receive information on their rights in their own language.

604. The specific information provided to homeworkers varies at the national level. In some cases, the law requires a written contract. Sometimes, this is a general obligation applicable to all contracts, and in some cases an obligation that is only applicable in the case of home work.

605. Some national laws require the employer to provide a copy of the agreement or the labour contract to the homeworker. In other cases, the law only requires the employer to provide information to the homeworker concerning the terms and conditions and duration of the contract. The law may also require employers to provide, on every occasion, or at the request of the homeworker, a statement of the work provided, materials or compensation received, or outstanding wages, as well as other necessary records relating to the employment relationship.

606. In most countries, the law requires the labour contract or home work agreement to indicate the following: name and address of the employer; name of the enterprise; name and address of the worker; remuneration and form of payment; reimbursement of costs; place where the work is carried out; description of the tasks; working-time arrangements; delivery of materials; amount of work; and deadlines. In some cases, the law also requires an indication of the competent authority and the collective agreement applicable. In some countries, specific laws or provisions on teleworking specify the information to be included in the labour contract for telework, and in some cases a written contract is also required. The information required may include: working conditions; technological tools required; specific working days; responsibilities respecting equipment; and safety.

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820 For example, Belgium (Act of 3 July 1978 on labour contracts, section 119(4)), Bosnia and Herzegovina (Federation of Bosnia and Herzegovina, Labour Code, section 24, Republika Srpska, Labour Law), Bulgaria (Labour Law, section 62(1)), Croatia (Labour Law, section 15), El Salvador (Labour Code, section 71), Estonia (Employment Contracts Act, section 5(5)), Germany (Employment Disclosure Act (NachwG), section 2(1)), Latvia (Labour Code, section 40), Mauritius (Employment Rights (Working from Home) Regulations, 2019, sections 3(4) and (5)), Mexico (Federal Labour Act, section 318), Montenegro (Labour Law, section 14) and Namibia (Labour Act No. 11 of 2007, section 11(3), read with Regulation No. 3 of the Labour General Regulations).

821 For example, Cambodia (Labour Law, section 67), North Macedonia (Labour Code, section 44), Malta (Employees Regulations), Spain (Royal Decree No. 1659/1998, section 8(5)), Sweden (Employment Protection Act) and Switzerland (Act on home work, section 3).

822 For example, Costa Rica (Labour Code, section 110) and Honduras (Labour Code, section 167).

823 For example, Belgium (Act of 3 July 1978 on labour contracts, section 119(4)), Bosnia and Herzegovina (Republika Srpska, Labour Law, section 44), Croatia (Labour Law, section 17), Morocco (Labour Code, section 94) and Thailand (Homeworkers Protection Act, section 9).

824 For example, Germany (Workplace Ordinance (ArbStättV) section 2(7)).

825 For example, Belgium (Collective Agreement of 5 December 2005, clause 6), Colombia (Decree No. 0884 of 2012 on teleworking, section 3) and Ecuador (Ministerial Decision regulating telework in the private sector, section 3).
The regulations in some countries require the employer to display or provide a copy of applicable homeworking bargaining agreements or homeworking tariffs, along with the list of fees for the homeworker. Some provisions specifically provide for the right of the homeworker to request explanations from the contracting entity on how payment is calculated.

For example, Austria (Homeworking Act, section 8), Germany (Homework Act (HAG), section 8(1)) and Jamaica (Minimum Wages Act, section 11(c), although only concerning minimum wages).

For example, Germany (Homework Act (HAG), section 28).

United Kingdom: The Advisory, Conciliation and Arbitration Service (ACAS) has issued a guide on homeworking for employers and employees.

The programmes implemented should also raise awareness of home work issues among employers’ and workers’ organizations, NGOs and the public at large. When adopting policies, it is important, for example, for trade unions and employers’ organizations to take into account the fact that homeworkers are not in the workplace. Trade unions should also provide assistance to homeworkers for the determination of their working conditions, particularly through collective bargaining. In this respect, the Committee highlights the important work carried out by many international workers’ federations and organizations, which are carrying out research and launching information campaigns on the problems and difficulties faced by homeworkers. It is also important for the public in general, and consumers in particular, to be aware of the importance of homeworking in the labour market, its impact on local and national economies and how homeworkers are integrated into more global supply chains.
610. This is particularly important as home work is often invisible and carried out in isolation. For this reason, measures should be taken to facilitate the organization of homeworkers in organizations of their own choosing, including in cooperatives. Furthermore, to reduce isolation, programmes should facilitate the establishment of centres and networks for homeworkers to provide them with information and services (Paragraph 29(1)(g)). Many homeworkers are organized in producer cooperatives, and some homeworker cooperatives have been active in the formalization of jobs and have enabled homeworkers to pool resources and determine their own terms of employment.830

611. Due to their isolation, homeworkers are often not taken into account in relation to training, which is frequently provided at the workplace, and is therefore distant from their homes where they work. If homeworkers have the opportunity to improve their skills, productivity and income-earning capacity, their perspectives can be broadened and their living conditions improved, and their competitiveness could be based on increased productivity, instead of low wages. It is important for homeworkers that training is accessible to them and takes into account the specific situation of many homeworkers, who have not had access to education or skills development, and should avoid the requirement of unnecessary formal qualifications. At the same time, home work should be recognized as a valid work experience as a stepping stone to better opportunities (Paragraphs 29(1)(d) and (e)).

612. Home work is often envisaged as an option in the absence of childcare facilities. As already noted, home work is carried out mainly by women, who choose it, among other reasons, due to their family responsibilities. They can therefore combine work and childcare, often in the same place. This may be dangerous and stressful, and may also affect productivity. Programmes for homeworkers should therefore facilitate access to childcare, and include measures to address the fact that homeworkers are often assisted by their children and be aimed at eliminating child labour. Many homeworkers also experience great difficulty in gaining access to credit and adequate safe and healthy housing. Programmes should also take into consideration and improve the safety and health of homeworkers, for example facilitating their access to equipment, tools, raw materials and other essential materials that are safe and of good quality (Paragraph 29(1)(f) and (h)).

830 Several homeworkers’ cooperatives have been established at the national level, for example in Nepal (Home Based Workers Concern Society Nepal (HBWCSN), which includes 90 self-help groups and nine cooperatives in such sectors as wooden handicrafts, knitting, weaving, tailoring and briquette making), Philippines (Homenet Producers Cooperative), India (Ruaab SEWA, garment workers), Senegal (COOPTAG, tannery workers) and Thailand (Solidarity Group, garment workers).
IX. Sectors in which home work is commonly utilized

613. Home work is very diverse and is used in a wide range of economic sectors, from the most traditional, such as baking or garment and shoe manufacturing, to the most evolved forms of telework. A wide range of materials are used and different skills are required from the workers.

1. Telework

614. Progress in information and communication technologies (ICT) has facilitated the spread of electronic work at home, usually referred to as “telework”, in which the link between paid work and the workplace is more evident than other forms of home work. Telework should not divert all attention from the core issues and problems raised by more familiar and traditional forms of home work. The issue of telework was addressed by the ILC in 1995 in the context of home work, when it was considered that it was important to devote some attention to the legal status of teleworkers, their remuneration, productivity, hours of work, changes in the organization of work and managerial styles, the impact on health and safety, and on employment, and the potential of telework to help certain specific categories of workers, such as workers with disabilities and workers with family responsibilities to enter or stay in the labour market.831

615. During the preparatory work, not all countries agreed on the need or the timeliness of addressing telework in this context. Others acknowledged telework as a new form of home work that goes beyond traditional manufacturing.832 Some considered it to be “one of the most rapidly expanding and exploitative forms of home work.”833 It was also noted that it entails a danger of isolation and skills downgrading.834 Others considered that it was possible to have more favourable working conditions for teleworkers than for workers in the enterprise.835 In any case, it was recognized that further studies and research need to be undertaken on telework to determine its impact on working conditions.

616. Telework is varied and can take place in different economic sectors with varying skills requirements. As such, it can evolve, particularly in terms of the possibility of remote control by the employer. Some telework is brokered through platforms (for example, text and data processing), and as such is often given out from industrialized countries to those in the developing world, where labour and other costs are lower (see below).

617. The Committee has already addressed telework in its General Survey of 2017 on working time,836 in which it noted the research conducted jointly by the ILO and the European Foundation for the Improvement of Living and Working Conditions (Eurofound),837 which identifies advantages and disadvantages of telework. Advantages for workers include; a reduction in commuting times; greater autonomy and flexibility in the organization of work; a better work–life balance; and higher productivity. Companies also benefit from the improvement in work–life balance, which can lead to increased motivation and reduced turnover, as well as enhanced productivity and efficiency, and from a reduction in the need for office space and associated costs. The disadvantages of telework are the tendency to work longer hours, to create an overlap between paid work and personal life (work–home interference) and the intensification of work.

834 ibid., p. 48.
835 ibid., p. 4.
The Committee also noted that, at the level of the European Union, the European Trade Union Confederation, the Union of Industrial and Employers’ Confederations of Europe, the European Union of Crafts and Small and Medium-Sized Enterprises and the Centre of Enterprises with Public Participation had negotiated a framework agreement on telework in 2002. The agreement recognizes that telework covers a wide and rapidly evolving spectrum of circumstances and practices. It aims to establish a general framework at the European level concerning the employment conditions of teleworkers and at reconciling the need for flexibility and security shared by employers and workers. Most importantly, it grants teleworkers the same overall level of protection as workers who carry out their activities at the employer’s premises. The agreement defines “telework” as a form of organizing and/or performing work, using information technology, in the context of an employment contract/relationship, where work, which could also be performed at the employer’s premises, is carried out away from those premises on a regular basis. The agreement covers: the voluntary nature of teleworking (it cannot be forced on an employee); employment conditions (teleworkers have the same rights as comparable workers in the workplace); data protection (the employer is responsible for taking precautions with regard to data protection); privacy (the employer respects the privacy of teleworkers); equipment (the employer is generally responsible for providing, installing and maintaining the equipment necessary for regular telework, unless workers use their own equipment); occupational health and safety (the employer is responsible for the protection of the occupational health and safety of the teleworker); the training and career development of teleworkers (teleworkers have the same access to training and career development as comparable workers at the employer’s premises); and the collective rights of teleworkers (teleworkers have the same collective rights as workers at the employer’s premises). With regard to working time, the agreement provides that the teleworker manages the organization of his/her working time and that the workload and performance standards of the teleworker are equivalent to those of comparable workers at the employer’s premises.838

Several countries have already adopted regulations on telework, some of which contain a specific definition of telework.

**Hungary** - The Labour Code, section 196(1), defines “teleworking” as those activities performed on a regular basis at a place other than the employer’s facilities, using computers and other means of information technology, in which the end product is delivered through electronic means.

**Turkey** - Labour Law No. 4857, as amended by Act No. 6715 of 6 May 2016, section 14, defines teleworking as an employment relationship established in writing and based on the principle that employees perform work from their home or from outside the workplace through use of technological communication devices, within the scope of the business organization created by the employer.

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838 European Union framework agreement on telework, 2002.
620. Some governments refer in their reports to draft legislation on home work and telework. Some indicate that the broad definitions contained in their legislation also cover telework, or that the general provisions of labour legislation are applicable to telework.

621. Telework is sometimes addressed through collective bargaining. One government indicates that, although not yet regulated, home work exists in practice, particularly in high-tech employment and the public sector, where it is permitted in exceptional cases after working hours. Some countries have adopted specific legislation to address possible disadvantages of telework, such as ensuring safe and healthy working conditions for homeworkers or teleworkers.

622. While noting that telework can take many different forms, some of which are permanent and others occasional, the Committee recalls that the Convention does not apply to persons with employee status who occasionally perform their work as employees at home rather than at their usual workplace. However, teleworking as a permanent arrangement, whether full-time or part-time, but not in alternation with office-based work, is clearly covered by the definition of “home work” in Article 1(a) of the Convention.

623. The definition provided in the legislation in some countries is broad and encompasses different situations that go beyond the scope of the Convention, such as alternating work at the employer’s premises and at home. The Committee considers that, in such cases, the legal regime applicable to the work carried out in the employer’s premises also applies to work carried out at home.

2. Digital platform work as a form of home work

624. Digital platform work, as described in chapter II, resembles home work, with the difference that a digital platform serves as an intermediary. Resemblances to home work include: the strategy of breaking down tasks into small units that can be assigned to more or less skilled workers; the payment structure by task; and the fact that it is performed outside the employer’s premises. Moreover, the matching services provided by some platforms for clients and workers appear, in practice, to be quite similar to home work intermediaries or temporary work agencies. The lack of clarity regarding the employment relationship is another characteristic that crowdwork shares with home work. Platforms, in the same way as other new forms of employment and working arrangements, are less transparent and sometimes conceal the true chain of responsibility. This is also a characteristic of home work and the intermediaries involved, where it is often necessary to identify the worker’s “ultimate” employer. Digital platform work is similar to home work in that it concerns a broad and diverse range of sectors. The blurring of lines between working and leisure time, and between the workplace and home, are further common features. Furthermore, rejection of work by the

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839 For example, Argentina, a series of initiatives to establish policies and public institutions for this type of work have focused on teleworking. A Commission on Telework established by the Ministry of Labour, Employment and Social Security (MTESS) submitted a legislative project in 2007 to regulate occupational health and safety for teleworkers. The Ministry prepared a manual of best practices in telework and launched a tripartite observatory to follow the development of telework programmes in companies and promote best practices; see RED de Teletrabajo (in Spanish) and Manual de buenas prácticas en teletrabajo (in Spanish). In Chile, the Government submitted a bill to the National Congress in August 2018 seeking to amend the Labour Code in relation to remote work and telework. In the Philippines, House Bill No. 7402, the Telecommuting Act, and its counterpart measure, Senate Bill No. 1363, the Telecommuting Act of 2017, are pending before both Houses.

840 For example, Bosnia and Herzegovina (Republika Srpska, Labour Code, section 44), Germany (Workplace Ordinance (ArbStättV), section 2(7)) and Greece (Act No. 3846/2010 on job security guarantees, section 1).

841 For example, Estonia (collective agreement concluded in 2017). For example, Israel.

842 For example, Japan (“Guidelines for the Appropriate Performance of Self-employed Type telework”).

843 See CEACR – Netherlands, C.177, direct request, 2013.

844 For example, North Macedonia (Labour Code, section 52).

employer, which is common in digital platforms, also exists in home work, combined with a lack of career perspectives and access to continued training. Moreover, they are both generally in the informal economy.

625. Another common issue is low remuneration. Crowdworkers often do not find sufficient work and have to look for work continuously, without any guarantees of finding it. In contrast, in traditional low-end “home work” in manufacturing, workers are more likely to have a regular flow of work from their regular supplier or contractor.

626. At the national level, few reports refer specifically to platform work in the context of home work. However, some reports indicate that the provisions in force are not intended to cover platform work.\(^{847}\) In certain cases, the broad definition of home work is considered to enable it to cover new forms of home work, such as platform work.\(^{848}\) In one case, the Government indicates that, where gig economy workers have to perform services in a personally dependent manner according to the instructions and under the control of a third party, and thus have the status of employees, they enjoy the full protection of the labour legislation.\(^{849}\) In another case, the Government indicated that it depended on the particulars of the case.\(^{850}\)

Australia – Homeworkers who source work through the gig economy can be covered by the Fair Work Act insofar as they are employees.

Canada (British Columbia and Manitoba) – Labour legislation also applies to homeworkers working in the gig economy.

Cuba and Cyprus – The national labour legislation applies to all employees, and the same provisions therefore apply to homeworkers (including those working in the gig economy) in the same way as to any other employee.

627. The Committee considers that, insofar as digital platform work or crowdwork is carried out at home or in a place other than the employers’ premises on a regular basis and for remuneration, it could fulﬁl the conditions to be considered a form of regular home work, and as such could be covered by the provisions of the Convention.

3. Supply chains and home work

628. Globalization and new technologies have made it easier to fragment production into different stages within and between countries. Supply chains are characterized by short lead times and short-term buyer-supplier relationships. As indicated in chapter II, the possibility of subcontracting has provided increased flexibility for manufacturers to manage stocks, and also to reduce risks and costs. These are now shifted to the subcontractor, which in turn transmits them to other subcontractors and intermediaries throughout the chain. Homeworkers are at the bottom of this chain, often in the informal economy.

629. Moreover, advances in inventory management technology are allowing firms to retain small stocks of goods. This implies that suppliers often have to meet tight deadlines and

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\(^{847}\) For example, Colombia.

\(^{848}\) For example, Switzerland (Code of Obligations, section 351).

\(^{849}\) For example, Germany report.

\(^{850}\) For example, United States report. According to the Government, it depends on multiple factors.
complete or modify orders with short lead times. When this occurs throughout the supply
chain, its final impact affects homeworkers, who have to absorb the risks associated with high
variations in demand. When suppliers are under pressure to meet the demand, they rely on
homeworkers, and when demand is low they cease to use them.

630. The digital economy is increasingly becoming central to the redefinition of supply chains
and the creation of competitive advantage, with speed and scale becoming the cornerstones
of economic performance. Digital platform workers are often integrated into supply chains,
and frequently face the same difficulties as traditional homeworkers.

631. At the national and international levels, the need has been recognized to create a more
level playing field and improve the governance of supply chains. It is acknowledged that the
strong bargaining powers of buyers (retailers) in supply chains should be accompanied by
their participation in some of the costs and responsibilities. In this respect, the involvement
and participation of workers is a key factor at both the national and international levels. Gov-
ernments have a crucial role to play in formulating regulations and other policy responses
to support private sector growth, while ensuring that growth is inclusive. At the same time,
governance structures, such as the ILO and OECD, are very important at the local and global
levels to guide countries in their “due diligence” in respect of fundamental principles and rights
at work. The Committee notes in this regard the OECD Due diligence guidance for responsible
supply chains in the garment and footwear sector, adopted 2017, which aims to minimize the
risk of the marginalization of homeworkers through formalization and legalization, while
promoting responsible supply chains. The guidance recognize the role of all members of
society at the national and global levels in this regard. The guidance highlight the intrinsic
role of homeworkers as part of the workforce, who are entitled to equality of treatment and
should be formalized to achieve good terms and conditions of employment. The Committee
endorses the emphasis placed in the guidance on the need for further research to understand
the reasons for the situation of homeworkers, recognize the diversity of home work, provide
technical assistance to help in the process of formalization and enable the collaboration and
participation of all stakeholders, and particularly organizations representing their particular
interests, including trade unions and cooperatives. Awareness-raising and training, as called
for in Paragraph 29 of the Recommendation, are crucial in this respect.

X. Conclusions

632. The Committee recalls that the adoption, implementation and revision of a national
policy aimed at improving the situation of homeworkers and promoting as far as possible
equality of treatment between homeworkers and other wage earners is the main objective
of the Convention. The Committee recalls that, while the policy should specifically address
the situation of homeworkers, it is not necessary for it to be a stand-alone policy, and that it
may be a part or chapter of a broader national policy covering all workers. In this regard, the
Committee wishes to highlight the close links between the objectives of Convention No. 122
on employment policy, Recommendation No. 204 on the transition to formality and the home
work instruments, particularly regarding the adoption of a national policy.

633. The national policy on home work is even more relevant as home work appears to be regaining momentum in the framework of the new forms of work enabled by information and communication technologies and within an ever more integrated labour market, in which home work is an important component of supply chains the world over.

634. The Committee highlights in this respect the importance that organizations representing the interests of homeworkers participate in the elaboration and revision of the national policy.

635. The Committee wishes to emphasize once again that teleworking as a permanent arrangement, whether full-time or part-time, and not in alternation with office-based work, is clearly covered by the definition of the term home work in Article 1(a) of the Convention. The Committee further recalls the wide variety of sectors in which home work occurs, from telework to more traditional forms of homeworking involving low-paid, casual jobs and poor working conditions on the edge of the informal economy, which needs to be taken into account when adopting, implementing or reviewing a national policy on home work.

636. The Committee emphasizes the importance of clarifying the employment status of homeworkers so as to ensure that they fully enjoy the rights to which they are due. In this regard, the Committee considers that the condition of dependency is an important element to be taken into account. However, the Committee recalls that Convention No. 177 is applicable to all cases in which homeworkers work under some form of economic dependency, including workers in the informal economy. The only homeworkers who are explicitly excluded from the coverage of the Convention are those who, in accordance with Article 1(a), in fine, have a degree of autonomy and of economic independence necessary to be considered independent workers under national laws, regulations or court decisions. The coverage of the Convention is not confined to workers who are clearly in an employment relationship and, as indicated in Article 2, it applies to all persons carrying out home work. The instruments are therefore useful tools to help workers in the transition from the informal to the formal economy.

637. Once it has been determined who is covered by the Convention, the Committee considers that measures should be taken to promote, as provided for in Article 4, as far as possible, equality of treatment between homeworkers and other wage earners with a view to improving their working conditions. The Committee considers that measures should be taken at the national level to facilitate the determination of the employment status of homeworkers. In this regard, the provisions of Recommendation No. 198 could also be taken into account in determining the homeworkers who are in an employment relationship.

638. While acknowledging that the instruments do not contain specific provisions respecting assistants, the Committee considers that whenever assistants for homeworkers are permitted in national legislation, consideration should be given to ensuring that occupational safety and health provisions are also applicable to them. The Committee further recalls that legislation concerning the minimum age for admission to employment or work, as well as prohibitions against hazardous work for children as set out in the fundamental Conventions Nos 138 and 182 are also applicable to homework. Moreover, the Committee considers that improving the living and working conditions of homeworkers, ensuring that they receive adequate remuneration and work reasonable hours is an important means of helping to ensure that they do not have recourse to child labour to assist them.

639. The Committee further considers that more data and research are necessary to improve understanding of the weight of home work in national economies and to shed more light on their working conditions. Governments should therefore adopt measures, where necessary, to ensure that monitoring, including labour inspection and enforcement measures, also cover homeworkers.