

## Análisis comparativo de normativas de teletrabajo en América Latina

*Comparison of telework policy in Latin America.*

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### Resumen

Los sistemas de educación a distancia han improvisado algunas normativas para regular situaciones de hecho, en la mayoría de las ocasiones se resuelven situaciones bajo criterios que inicialmente fueron ideados para los sistemas educativos presenciales, bajo este tenor se hace necesaria la regulación de una figura denominada Teletrabajo, que implica el elaborar normas dirigidas a dirimir controversias y a cubrir lagunas jurídicas de trabajadores que prestan sus servicios fuera del local de la empresa y empleando las tecnologías de la información y comunicación. En América Latina existen algunos proyectos de ley, leyes aprobadas y decretos sobre esta temática, se analizan de manera muy general los casos de Argentina, Colombia, Costa Rica y México. Aunque el análisis se limita al estudio de la figura del teletrabajador en general, no se aterriza en la figura del teledocente, pero se hace evidente el atraso jurídico que nuestro país tiene con respecto a la regulación del teletrabajo a pesar de que este se incorpora en la última reforma laboral de 2013 propuesta por el Presidente de la República.

**Palabras clave:** Teletrabajo, laguna jurídica, ley, decretos, propuesta de ley, teletrabajador.

## Abstract

The distance education systems have improvised some regulations to regulate situations in fact, in most cases resolve situations under criteria that were initially designed for educational systems face under this wording is necessary to regulate a figure called Telecommuting , which involves developing rules to settle disputes and to cover loopholes workers who provide their services outside the company premises and employing information technologies and communication. In Latin America there are a number of bills, laws and decrees adopted on this subject, are discussed in very general cases of Argentina, Colombia, Costa Rica and Mexico. Although the analysis is limited to the study of the figure of the teleworker in general, no lands in figure teledocente but legal backwardness evident that our country has with respect to the regulation of telework Although this is incorporated into the latest labor reform of 2013 proposed by the President of the Republic.

**Key words:** Teletrabajo, laguna jurídica, ley, decretos, propuesta de ley, teletrabajador.

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## Introduction

Teachers who serve in distance education systems often have to improvise the normative criteria of activity, at least in Mexico there are issues that are not detailed and allow improvisation in solving disputes and other trivial aspects but do not follow appropriate policy criteria, this this work, including the controversial aspects are concerned:

The mechanisms for measuring working hours, occupational hazards, the cost of maintenance of equipment and connection costs, and the obligation to provide inputs, another important aspect is the provision of time on a given day sporadically discrimination in pay and opportunities for promotion, training, verification of the sites or premises where the service is provided, the regulations applicable to cross-border teleworking and public policies for implementation in the public and private sectors.

On the one hand are discussed in very general terms telework regulations exist in Argentina through two systems, three policymaking bodies of Costa Rica are studied and one of Colombia. Consider the points that these regulations are established and finally allusion to the Mexican proposal is made through the initiative of labor reform of 2013 given by the President of the Republic, where the figure of telework and incorporated into the labor law.

Were chosen regulatory bodies Argentina, Costa Rica and Colombia because the author's view represent current and existing cases of major legal progress in the consideration of Telework in Latin America, and in the case of Costa Rica is the last specific project the issue has not yet been approved, but it represents a comprehensive standard that seemingly incorporates the progress and achievements of the rules that precede it.

The laws are reviewed:

Argentina	Régimen Jurídico del Teletrabajo en Relación de Dependencia, en cumplimiento de la Ley Nacional 25800 que ratifica el convenio no. 177 sobre trabajo a domicilio de la Organización Internacional del Trabajo (O.I.T.)
Argentina	Ministerio de Trabajo, Empleo y Seguridad Social resolución 147/2012 créase la Coordinación de Teletrabajo
Costa rica	Proyecto de ley para la Promoción, Regulación e Implementación del Teletrabajo en Costa Rica expediente n.º 18.549
Costa rica	Decreto N° 34704-mp-mtss promoción del teletrabajo en las instituciones públicas.
Costa rica	Decreto 35434-S-MTSS. Implementación del teletrabajo en mujeres que se encuentren en estado de embarazo que presten servicios en instituciones públicas y empresas públicas del estado y todas las empresas del sector privado.
Colombia	Ley 1221 de 2008 por la cual se establecen normas para promover y regular el teletrabajo y se dictan otras disposiciones.

México	Anteproyecto de iniciativa que reforma, adiciona y deroga diversas disposiciones de la ley federal del trabajo de agosto de 2012
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Analysis Development

For a description of these laws is regarded as the patron both parties as a teleworker, team devices required for the performance of work are understood by reversibility of the situation that a worker who adopts telecommuter mode can be reversed to its previous state per worker to worker generally not incorporated in the figure of the teleworker, for mixed telework who develops both the local or facility provided by the employer and combining telework.

Table 1 three cases of regulatory bodies on telework in Latin American countries

Country	Argentina	Argentina	Costa Rica
Rule	LEGAL REGIME IN TELEWORKING agency relationship, in compliance with the National Law 25800 which ratifies Convention No. 177 on Home Work of the International Labour Organization (ILO)	Believe 147/2012 Resolution Coordination Telework by MINISTRY OF LABOUR, EMPLOYMENT AND SOCIAL SECURITY	DRAFT LAW FOR THE PROMOTION AND IMPLEMENTATION OF REGULATION IN COSTA RICA TELEWORKING Docket No. 18,549
legal status	Act passed by Congress	Resolution of the Ministry of Labour	Law project
Date	2 july 2007	10 february 2012	august de 2012
Number of articles	9	3	22

Table 2 Three cases of regulatory bodies on telework in Latin American countries

Country	Costa Rica	Costa Rica	Colombia
<b>Rule</b>	Decree No. 34704-MP-MTSS TELEWORKING PROMOTION IN PUBLIC INSTITUTIONS OF COSTA RICA	Decree 35434-S-MTSS implementation of teleworking in WOMEN ARE IN STATE OF PREGNANCY IN PROVIDING SERVICES AND PUBLIC ENTERPRISES PUBLIC INSTITUTIONS OF STATE AND ALL COMPANIES PRIVATE SECTOR	1221 ACT OF 2008 which establishes rules to promote and regulate the Telework and other provisions.
<b>legal status</b>	Decreto	Decreto	Ley aprobada por el Congreso
<b>Date</b>	31 July 2008	20 August 2009	16 de July de 2008
<b>Number of Articles</b>	12	12	9

Description

Argentina. Legal status of telework as employees, in compliance with the National Law 25800 ratifying the convention no. 177 Home Work of the International Labour Organization (ILO).

Article 1 defines telework and telecommute, in Article 2 equal rights and opportunities for teleworkers compared to other workers is established, further indicates the possibility of special collective agreements.

Article 3 compliance is guaranteed privacy of the teleworker and the privacy of your home, in Article 4 provides that the cost of equipment maintenance are borne by the employer as long as the team has provided the worker, but supports additional agreements between the

parties. In Article 5 of the teleworker obligation to care for and respond to when these teams are provided by the employer is established. In Article 6 the possibility of reversal of the teleworker who has adopted this mode as long as you have not indicated their agreement in writing, but can be done by agreement of the parties is enshrined.

Article 7 is an important adaptation because it determines that the administrative authority shall promote the adequacy of standards for safety and hygiene law 24557 Risk Argentina working to incorporate in listing the diseases of this type of work.

Finally in Articles 8 and 9 of the supplementary use of labor contract law in cases not provided for in this law and ordered its publication set.

Argentina. 147/2012 Resolution of the Ministry of Labour, Employment and Social Security to create the Coordination of Telecommuting.

This is important because it creates *exprofeso* coordination for the promotion, diffusion, skills certification telecommuters, among others, which is valuable to meet rising labor modality in Argentina.

This document is important because it drives a number of state policies for the development of Telecommuting, documented these policies represent an important basis for generating actions that meet this mode from the generation of standards, quality standards, promotion policies, decreased digital divide, incorporating telework for vulnerable groups, and officially recognized as an important task coordination working group of eLAC.

This resolution creates the Coordinating called telecommuting, whose main functions are: Promote, monitor and facilitate the generation of decent work conditions for teleworkers and promoting e-work and promote telework in remote areas.

Permanently advise on training regarding the demands of the areas requiring improve ICT skills of the employed and unemployed, so their incorporation into new employment arrangements, including telecommuting, promoting employment of vulnerable groups, including handicapped persons, convicts and ex-convicts, aged 18 to 24 are unemployed and over 45.

Pursue the implementation of the Telework Competence Certification, enabling the accreditation of knowledge and experience gained informally by the recognition of qualifications within quality standards.

Support the dissemination of ICTs in production networks as a way to bring small and medium enterprises in innovation processes, encouraging their inclusion in the formal sector of the economy including arrangements for telework and e-work.

Coordinate Network Enterprises and institutions committed to telecommute for cooperation on national and regional levels, based on the exchange of learning, research and best practices in telework.

PLAN OF ACTION ON THE INFORMATION SOCIETY AND KNOWLEDGE OF LATIN AMERICA AND THE CARIBBEAN (eLAC2015). : The eLAC is an action plan for Latin America and the Caribbean, according to the Millennium Development Goals (MDGs) and the World Summit on the Information Society (WSIS), with a long-term-to the year 2015 - which posits that information technology and communications (ICT) are instruments of economic development and social inclusion. The Economic Commission for Latin America and the Caribbean (ECLAC) acts as Technical Secretariat of the regional action plan, coordinating efforts, monitoring progress, publishing newsletters and exchanging information among the relevant multi-sectoral stakeholders, within the framework of the Action Plan eLAC2015, adopted at the Third Ministerial Conference on the Information Society in Latin America and the Caribbean, the creation of 14 working groups were agreed.

Telecommuting group is coordinated by Laura Viviana Diaz, Ministry of Labour, Employment and Social Security of Argentina, who is in the presidency and the vice: Dominican Republic by Angela Jaquez, House of Representatives, and other members of Venezuela , Costa Rica, Colombia, Mexico and Ecuador.

Constitute a thematic focal point for monitoring, analysis and dissemination of labor scene transformations linked to the application of ICT for telework.

Articulate as a meeting and dialogue between the MINISTRY OF LABOUR, EMPLOYMENT AND SOCIAL SECURITY and the different sectors of civil society,

public sector, academia, unions and corporations to address the problems of ICT in the modes of telework and e-work, drawing data and statistics, documents and publications.

Generate actions to promote telework within the Community of MERCOSUR as well as also coordinate the Working Group in 2011 Telework eLAC ECLAC.

To promote the development of standards that promote and regulate telework as an employee, to propose amendments to the Law on Occupational Hazards.

Coordinate joint actions with the MINISTRY OF SCIENCE AND TECHNOLOGY AND EDUCATION on projects that promote the reduction of the technological gap nationally and in designing training tools and training in teleworking for teachers, professors and students from the Middle Tertiary level and university incorporating telework as a tool for social inclusion in all areas achieved or achievable by this method.

Costa Rica. Bill for the promotion, regulation and implementation of telework. File No. 18549.

The author had the opportunity to participate in the manifest Costa Rica Telework 2012, where after three days of diverse work social actors: politicians, academics, lawyers, telecommuters, scholars have proposed a number of measures to be considered in a law teleworking to Costa Rica and in public for the development of telework policies within major highlight issues is this bill was prepared and submitted prior to the conclusion of the international conference, this project represents the latest effort by a legislator as to the specific regulation of telework in Latin America, through its analysis can shed that is a good example for other countries as it incorporates: telework as a modality for self-employed, under the regime of dependency, to strengthen self-employment and to include people with disabilities, to operate government facilities and to reduce the time of transfer and environmental pollution, as well as a response to the need to reduce energy costs and water in government offices, among others, ie , is a comprehensive law with a broad view of both objectives and justification, so it is valuable analysis because it provides a good example for legislators, at least for Mexico and this, in my view, a bit more advantageous than those of other Latin American countries already have laws telecommuting.



This law has been shared with whom we collaborate on a group eLAC ECLAC called GDT (group teleworking) is not a public document yet, but that does not mean it can not be used to make some considerations of what may well be the following law enacted on the subject. Includes definitions, modalities, telework centers, public policy, regulation of an agency for promoting telework in Costa Rica, government incentives for companies that encourage telecommuting, people with disabilities, and certainly the guarantees and rights of companies and teleworkers.

A general analysis of the law:

Article 1 refers to the object of the law, same as enshrined in Article 3 of this law.

Article 2 refers to the scope that corresponds generally to government institutions and public and private companies. Article 3 refers to the objective of the law, this is important because it incorporates the various purposes from other Latin American laws: environmental protection, modernize the governance, support for labor inclusion of vulnerable groups, promotion of teleworking and facilitate closing the digital divide in Costa Rica, this implies an important advance, because in a single legislature bills that were conceived separately both in Costa Rica and other countries such as Colombia are incorporated.

Article 4 defines a telework, from my point of view is the most accurate definition because it incorporates the telecommuting as teledocente in this definition, an issue such as the definition of Argentina law on the matter is not entirely correct, what is not mentioned is the consideration of the percentage of time devoted to the activity to consider telecommuting. It also adopts the definition of teleworker both dependent on the pattern of self-employed. It also defines ICTs, but incorporates two definitions: telecentres and modernization of labor management through teleworking.

Article 5 is new in the legislation explicitly described as telework policies to follow-the flame rectores- principles:

- a) Accessibility without Exclusion.
- b) Solidarity towards vulnerable groups.

- c) Compliance with labor standards and occupational health.
- d) Compliance with the rights and obligations of employers and telecommuters.
- e) Improving organizational productivity.
- f) Optimizing the use of resources.
- g) environmental sustainability.

In Chapter II further developments are also set if this law is compared with other systems such as Argentina, Colombia, Chile and Peru, as is the duty of the State to promote telework and create an agency to promote telework, same to be administered by the Executive Committee who formed a representative of each of the following entities: Ministry of Labour and Social Security, Ministry of Planning, Ministry of Science and Technology, Ministry of Education, Civil Service, and private sector workers, this articulated at 6 and 7.

Article 8 public policies are reported to follow:

- a) The existing state infrastructure that is useful for the fulfillment of the purposes set out in this Act.
- b) The technologies applied to telework.
- c) Policy social inclusion through telework.
- d) Environmental liability on telework.
- e) training to develop telework Shares.
- f) Incentives to promote telework.
- g) The creation of a national network for the promotion of teleworking.
- h) The creation of partnerships between the public sector and the business for the promotion of teleworking.

Continued with the review of the articles, Article 9 government incentives are established, which are specified in the respective regulations. Article 10 refers to non-discrimination for incorporating telework subject.

Article 11 establishes the obligation to incorporate the workforce in disability.

Articles 12, 13 and 14 the promotion of telework in geographically isolated from metropolitan areas and those population sectors is established in adverse socio-economic conditions as well as young, plus respect for gender equity is recorded.

From Chapter IV guarantees teleworkers are mentioned:

Article 15 is set to equal rights as other workers

Article 16 establishes new mandatory patterns provide inputs for telework, including the necessary information and connection costs, maintenance and equipment for the performance of telework, unless otherwise agreed by both parties, this is also a first, as it was ignored situation in most of the projects on the subject in Latin American provisions.

Turn on Article 17 the obligation to take care of all these elements by the worker and the conditions under which that obligation must be answered is established. It also states that the worker must have available time to your employer at any time of day, take care of the confidentiality of information that is provided by the first.

Another useful new feature is the fact that the law states that the employee must heed the recommendations of the occupational health professionals, it incorporates ignored in other legislation on the safety of facilities, ergonomic design elements. The worker is obliged to the other obligations of a worker but there are some aspects that may be agreed between him and the employer and the availability and exclusive use of the media to telework.

In Article 18 the possibility of reversal of the teleworker to his previous work model is established, it must be the will of the teleworker to act as such; but this does not apply when the teleworker has agreed to exclusively to that place that telecommuting from recruitment.

Article 19 provides a further step, for in other legislation is omitted often enter into a contract containing clauses for the teleworker and the employer were attached, which entailed to improvise often, so this paper represents a significant advance now therefore specifically and differentially contract may well rely on the collective agreement where it exists it is set, but independently serves only aspects that telecommuters are applicable.

Article 20 provides more of a novelty, considering the application of labor standards in this bill and other existing standards in the country to border workers whose domicile is located in Costa Rican territory, this represents an advance because there were also omissions

regarding applicable to a teleworker regulation, tax issues, protection of rights, among others, because often left unprotected by the teleworker serious loopholes.

In Article 21, a state policy that allows to continue efforts to implement telework in government institutions is established, it points to the strategic plan following the issuance of this law period the shares as stated in the National Plan of development Related to Management Modernization through telecommuting, which is expected to allow developing telecommuting from public institutions and the accompanying benefits of teleworking.

Finally, Article 22 states that this law should be regulated in a period of three months from the publication, which is expected to rule on the matter is more specific aspects of detailing.

Costa Rica. Decree 34704-MP-MTSS, promoting telework in public institutions.

In Article 1, the purpose of the Act is established to promote and regulate the Telework in State institutions, as a means to increase staff productivity, saving fuel, environmental protection, and promote work-life balance personal, family and work, through the use of Information Technology and Communications (ICT).

Telecommuting, State Institutions, Information Technology and Communications (ICT), home address, Teleworker, overview and Office Services (Equipment used to generate, store, process and communicate information on: the definitions set out in Article 2 an office environment).

In Section 3 refers to the Telework Program Implementation within state institutions, where states the minimum requirements to be set in the program.

Labor conditions are established in Article 4: unless another mode is determined then all programs that are implemented based on this Decree shall be temporary. Unless specific exceptions teleworkers are not subject to days or hours of work, when they perform the work on your personal residence or place authorized purposes teleworkers and those that are not subject to days or hours of work, efficiency and compliance the tasks assigned to the tele-workers will be measured according to production-goal. Teleworkers maintain and benefit from the same rights and obligations as other workers in the institution. For all

purposes and in whatever is applicable, the rules of engagement at home, regulated from Article 109 of the Labour Code will be met.

In Article 5, the formation of a Coordinating Team of the plans or programs Telecommuting is ordered, indicated those who conform, Article 6 of its powers and duties, among which are down: issuing policies and general guidelines on Telecommuting in the public sector, coordinate the necessary actions to the appropriate authorities that telework is implemented at national level, including the study of public institutions for its technological infrastructure budget status or activities can participate in this type of work; regulate and standardize the procedures, guidelines and training programs and training that are necessary for the proper implementation of the Telework Program.

According to Article 7 for the development and implementation of telework pilot programs in each institution, Institutional Committee, who shall take into account, for the proper implementation of internal programs Telecommuting, will integrate the following components:

- a) Telecommunications infrastructure.
- b) Access to computer equipment.
- c) Applications and content.
- d) Disclosure and marketing.
- e) Training.
- f) Incentives.
- g) Ongoing assessment and formulation of corrective when its development requires.

Articles 8 and 9 shall be entered in the public interest the activities undertaken for the promotion of telework in public institutions. Additionally, the Public Administration may coordinate with the private sector cooperation activities, within its capabilities and the corresponding legal framework, and the Coordinating Team may recommend to the Executive Branch the implementation of public policies in relation to the technological infrastructure required for the efficient performance of the functions of the teleworker.

Stated in Article 10 that the heads of state institutions facilitate the participation of their staff in training activities to incorporate Telework Program, and in 11 states that state

institutions sent to the Coordinating Team, within no more than three months, the evaluation of results.

Costa Rica. Decree 35434-S-MTSS Implementation of telework Find in women who are pregnant who provide services in public institutions and state-owned enterprises and all private sector companies.

Article 1 This Act states states that women serving in public institutions and state-owned enterprises and any private sector company, which is in a state of pregnancy, can provide service from your home or place enabled for this purpose, subject to the nature of their functions, so that the work can be done in developing the terms of the decree already reviewed above.

Article 2 establishes the requirements for working women must meet to be subject to this order.

Article 3 sets out the powers enjoyed by the employer or employer's representative to oversee the work performed under this system, while respecting the rights of the teleworker.

It states in Article 4 that the implementation of teleworking, has been derived from the proliferation of influenza AH1N1, therefore your application will be temporary. Articles 5, 6 and 7 the exclusion of these modalities provides those workers who are pregnant, whose functions, by their nature, necessarily require their presence at the seat of work. It will be up to the Ministry of Labour and Social Security to intervene at any moment or situation during the implementation of this type of work.

Article 8 specifies that employment contracts enjoy the same conditions for which initially was hired the servant, the same rights and obligations under the initial contract of employment, as well as other acquired labor rights will be maintained and the fact invoke this mode, not interrupt the continuity of its service or other fees.

Public institutions and public enterprises that should adopt this type of work, must form a commission under the terms of Article 7 of Executive Decree No. 34704-MTSS-MP, same as supplementally applied in matters not covered by the decree.

Colombia. Act 1221 of 2008 by which standards are established to promote and regulate telecommuting and other provisions.

A general analysis noted that the law allows states to promote and regulate the Telework as an instrument of employment generation and self-employment through the use of information technology and telecommunications (ICT). The article defined:

Telecommuting both autonomous (eg the worker's home) and mobile (those without a fixed location) and supplemental (can be mixed to say, telecommute but also go to the office on a regular basis); also defines

Teleworker. This article therefore adds differentiation of different types of teleworkers, which is advantageous because there are many mixed telecommuting and does not necessarily fit the definition of other jurisdictions.

In article 3 formally establishes the public policy to encourage telecommuting, involving various government agencies that take into account the following components:

Telecommunications infrastructure, access to computer equipment, applications and content, outreach and marketing, training, incentives and ongoing evaluation and formulation of corrective when its development requires. , Threatening people is also set to be made a public policy telework incorporation of vulnerable people (People with disabilities, people in situations of forced displacement, population geographical isolation, female heads of household, persons in prison of his life).

Article 4 is reported the creation of the National Network to promote telework, composed of various public and private sectors, whose functions will be defined in Public Policy for the Promotion of Labour.

Article 5 states that the Government will operate a system of inspection, surveillance and monitoring to ensure compliance with labor legislation under teleworking.

Article 6 is very explicit and establishes an advance in consideration of telework, because unlike the conditions to which the teleworker is attached, this article is perhaps the most important because according to the year it was legislated represents a significant advance in the protection of the rights of the teleworker and presents criteria for settling disputes in addition to criteria that guide the implementation of teleworking.

Notes that teleworkers no provisions on working hours, overtime and night work will be applicable. Notwithstanding the above, but should be monitored that are not subjected to excessive workloads

Guaranteed equal treatment and wage to a worker in general if it performs the same job, but also considering the possibilities and peculiarities of work.

Another important development is the consideration of salary in cases where the employer only use teleworkers should be considered as the nature of work and the compensation paid for similar work in the locality.

It also incorporates valuable to note that not considered salaried teleworkers who occasionally perform their work at home or elsewhere than at the premises of the employer, rather than at their usual workplace criteria.

It also states that the assignment of tasks for teleworkers should be made so that their right to have a break from creative, recreational and cultural activities is ensured.

Literally equal treatment guarantees the right of teleworkers to establish or join organizations of their choice and participate in their activities, remuneration, access to training, age for employment, to protection from discrimination in employment, respect for the right to privacy and privacy of the teleworker, protection in matters of social security (General Pension System General System of social security in Health and occupational hazards), in accordance with the provisions of Act 100 of 1993 (for which creates comprehensive social security system and other provisions) and other applicable regulations. Another particularly important is that as a public policy provides protection for motherhood maternity protection, as teleworkers have the right to return to the same job or an equivalent position with the same pay, following maternity leave.

Another important addition is the obligation of employers to provide and ensure the maintenance of equipment, connections, software, energy costs, displacements prescribed by him, needed to perform the duties of the teleworker, but also notes that the elements and means provided no may be used by different teleworkers, who at the end of the contract must return the objects delivered for execution, in good condition, except for the natural deterioration person.



Another rule that prevents potential disputes is the slogan that receive full salary if the teleworker does not receive information packets to perform their tasks, or programs to perform its function, or they are not fixed despite having warned, as occurs when the workplace is supplied by the employer and the teleworker can not provide the service due to a cut phone lines or the electricity flow, however this issue does not apply to the worker who is working in the form of mobile.

The employer must consider the teleworker job within the plans and occupational health programs and must have a network of emergency care in case of accident or illness teleworker in the exercise of their duties.

Voluntariness of telecommuting for both entities.

Preferential right to suggest that firms whose activities have a seat in Colombia, who are interested in linking teleworkers must do so with persons domiciled in the country, who will develop their work in Colombia and all relations of telework are developed is also reported in the country they will be applied Colombian labor law, as it is more favorable to the teleworker.

Another important consideration is the ability to account for the payment of overtime, Sundays and holidays as any other worker in general when telecommuting is executed where the workday is verifiable, and teleworker at the request of the employer is held in the workday more as provided in Article 161 of the Labour Code and Social Security, or assigned more work than usual.

It also provides in Article wearing a Register of teleworkers, where the employer must report such relationship to labor inspectors of the respective municipality and the absence of this Mayor. Finally, this law states that should be regulated.

Mexico. Draft reform initiative, adds and repeals various provisions of the Federal Labor Law August 2012.

The draft states: "it is essential to give strong support to the amendment of the Federal Labor Law impulse. The proposals presented today to the consideration of that sovereignty,

collect recurring themes and concerns expressed workers and employers, "which means that telecommuting and their rules are not an ongoing concern in Mexico, as the proposal is poor in this area and strikes the American tendency to regulate telework.

Among the proposals outlined is mentioned as point 21:

"Recognize telework, ie, one that is done remotely, using information technology and communication, as one of the forms of home work. With this method the possibility of occupational favors people, allowing them to combine work activities with their family responsibilities. Of course, in conducting these activities have the protection of labor standards and social security. "

However, in the Proposed Act is mentioned only in Article 311 a referred amendment to telework, but even without using the term to look like:

Article 311 ...

Will be considered as home work which is done remotely using information technology and communication.

If the job is run under conditions other than those listed in this article shall be governed by the general provisions of this Act.

They are not going to list the items comprising 311-330 of Chapter XII of the Federal Labor Law, but we can say in general after revision:

Not merely because of incorporating the notion of telework in Article 311 the necessary standard of this topic is solved, any proposed amendment to any of the other articles of this chapter does not, trying to make consistent these section 311 may interpreted;

Article 324. Employers have the following specific duties:

...

II. Provide materials and working on agreed dates and times;

This implies that the employer must provide the teams, although it is not possible to know if that is the intention of the legislator, but also notes that may be made by agreement between the parties

In other items of equal pay is guaranteed the right to a day of rest and annual leave, but does not mention labor flexibility and leaves open the possibility that the employee may be assisted by members of his family.

## Conclusion

It is clear that the proposal addressed by the labor reform in Mexico is poor, because it will not devote even a precise definition or rules, instances, public policy, in short, lacks all meaning and relevance to the urgent need to regulate teleworking in our country.

Clearly the inappropriateness of reform in the sense of meeting the new working arrangements is an issue that directly contravenes the national legal tradition, since the labor law has been historical example of legal development and provision has served to impose criteria worldwide however it is not updated and apparently this lag will continue to impede the development of working arrangements growing in other countries.

The standard gives legal certainty and the lack of a state where improvisation and application of various criteria prevents institutions and companies determine incorporate telework in their work practices, with the disadvantage that this brings is created. This is also a disadvantage for Mexican teleworkers on their own, because they are exposed to international law enforcement due to the loophole in many respects.

The author's interest has been to expose the inadequacy of our national standard for telework and with respect to other Latin American countries, but specifically leave a concern: this legal lag also implies that educational systems teledocentes hire (unless they stop teleworkers ) and normative criteria originally intended for workers in general are applied, which may result in significant systems braking distance education, although this is not shown in this study.

## Bibliography

Asamblea Legislativa (2012). Bill for the Promotion, Regulation and Implementation of Telework in Costa Rica case No. 18549. San Jose, Costa Rica

Congreso de Colombia (2008). Act 1221 of 2008 by which standards are established to promote and regulate telecommuting and other provisions.

Federal Labor Law. Comments, syllabus, jurisprudence. Mexico: Editorial Porrúa.

Poder Ejecutivo Nacional (2007). Legal Status of Telework in Dependency Ratio in compliance with the National Law 25800. Buenos Aires.

Presidencia de la República (2012). Draft reform initiative, adds and repeals various provisions of federal labor law. Mexico.