

MEMO SECURITY

January 30, 2023 – The Right to Disconnect



Did you know?

Introduction

In today's work world, the lines have blurred between "being at work" and "not being at work." This is due to the following factors:

- constant connection to mobile devices
- the rapid increase in teleworking
- a hybrid work model

The right to disconnect makes it possible to:

- Guarantee compliance with legislated rest and leave periods
- Guarantee the balance between professional and personal & family life
- Protect the physical and mental health of employees

The employee's right to disconnect from work-related activities is the right not to connect to any work-related digital tools (messaging, telephone, application, software, internet, intranet) outside of working hours. The right to disconnect also applies in the context of teleworking.

Legislative Framework

In Canada, there is no legislation for the right to disconnect. However, the Canadian government has established an Advisory Committee on the Right to Disconnect¹. Even though there is no legislation in Canada for the Right to Disconnect, each province has regulations that on an average employee's are entitled to have at least 24 hours off from work every week².

In Ontario, a business that has 25 or more employees must establish a written policy on the right to disconnect³. In Quebec, the provincial government has presented Bill 799. Under this bill, employers would need to establish an after-hours disconnection policy that applies to all employees.

In France, the right to disconnect was established by the Labour Law of 8 August 2016 and is governed by Article L.2242-17 of the Labour Code⁴.

So far, there has been little interest in the United States for legislation on the right to disconnect⁵.

Over-Connected and Hyper-Connected

Definitions

- **Over-connected:** the employee multiplies the use of nomadic and digital tools and devotes a lot of time to them during his working day.
- **Hyper-connected:** the employee remains in permanent contact with their employer and / or colleagues, they respond without delay to professional requests and sometimes

contacts other employees without making the distinction between private and professional life.

⇒ *the employee no longer knows how to dissociate professional and personal life and works excessively.*

Risks for the Employee

- Stress, fatigue, decreased concentration, sleep disorders, family problems
- Decreased physical activity and visual disturbances
- Development of addictive behaviors
- Depressive symptoms

Business Risks

- Decreased productivity and concentration, and errors and forgetfulness due to incessant interruptions by emails, telephones, and other notifications
- Professional responsibility linked to the tendency of hyperconnected employees to systematically write emails for the slightest exchange

Guidelines for putting the Right to Disconnect into Practice

General Instructions

- No obligation to answer e-mails or telephone outside working hours
- Alert the supervisor in case of "overflow"

Suggested Best Practices

- Avoid sending e-mails outside working hours and set recourse to the deferred sending of emails
- Avoid contacting an employee by phone or email outside normal working hours (during weekends, public holidays and paid holidays, sick leave, etc.)
- Mention in the emails of the exemption from response outside working hours
- Show unavailability using available tools:
 - Activate out of office notification, email forwarding and referrals to available people
 - Turn off all notifications during specific times in the evening until business opening hours on the next business day
- Avoid the "reply all" function unless critical to project and business needs
- Optimize meetings (avoid late hours and long meetings)

¹ Canada. Final report on the right to disconnect advisory committee. February 2022. Retrieved from <https://www.canada.ca/en/employment-social-development/corporate/portfolio/labour/programs/labour-standards/reports/right-to-disconnect-advisory-committee.html>

² Canadian Labour Code, Part III – Division I – 802-1-IPG-002. Retrieved from <https://www.canada.ca/en/employment-social-development/programs/laws-regulations/labour/interpretations-policies/hours-work.html>

³ Ontario. Written policy on disconnecting from work. Retrieved from <https://www.ontario.ca/document/your-guide-employment-standards-act-0/written-policy-disconnecting-from-work>

⁴ République Française. LOI n° 2016-1088 du 8 août 2016 relative au travail, à la modernisation du dialogue social et à la sécurisation des parcours professionnels. January 1, 2019. Retrieved from <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000032983213>

⁵ TechTarget. The right to disconnect vs. America's always-on culture. Retrieved from <https://www.techtarget.com/searchhrsoftware/news/252502217/The-right-to-disconnect-vs-Americas-always-on-culture>

⁶ Image modified and used with permission from: Ahmetbildirci, CC BY-SA 4.0 https://tr.wikipedia.org/wiki/Dosya:Mobil_sosyal_a%C4%9F_ba%C4%9F%C4%B1m%C4%B1%C4%B1%C4%9F%C4%B1na_ithafen_bir_%C3%A7al%C4%B1%C5%9Fma.jpg via Wikimedia Commons