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EGDF position on enabling cross-border remote work

About EGDF

1. **The European Games Developer Federation e.f. (EGDF)¹** unites national trade associations representing game developer studios based in 19 European countries: Austria (PGDA), Belgium (FLEGA), Czechia (GDACZ), Denmark (Producentforeningen), Finland (Suomen pelinkehittäjät), France (SNJV), Germany (GAME), Italy (IIDEA), Lithuania (LZKA), Netherlands (DGA), Norway (Produsentforeningen), Poland (PGA), Romania (RGDA), Serbia (SGA), Spain (DEV), Sweden (Spelplan-ASGD), Slovakia (SGDA), Turkey (TOGED) and the United Kingdom (TIGA). Through its members, EGDF represents more than 2 500 game developer studios, most of them SMEs, employing more than 35 000 people.
2. **The games industry** represents one of Europe's most compelling economic success stories, relying on a strong IP framework, and is a rapidly growing segment of the creative industries. The European digital single market area is the third-largest market for video games globally. In 2019, Europe's video games market was worth €21bn, and the industry has registered a growth rate of 55% over the past five years in key European markets². All in all, there are around 5000 game developer studios and publishers in Europe, employing closer to 80 000 people.³
3. **Many game developer studios and publishers are based in Europe because Europe is able to attract leading creative, business and computational talent.** As an outcome of the COVID19 pandemic, remote work both in the EU and from third countries is going to become far more common. Consequently, the EU must build a solid, clear, predictable and transparent framework not just for immigration but also for remote work.

¹ For more information, please visit www.egdf.eu

² ISFE Key Facts 2020 from GameTrack Data by Ipsos MORI and commissioned by ISFE <https://www.isfe.eu/data-key-facts/>

³ European Games Industry in 2018: <http://www.egdf.eu/wp-content/uploads/2020/08/European-Report-on-the-Game-Development-Industry-in-2018.pdf>

Three steps to towards digital single market for remote work

4. As an outcome of the COVID19 outbreak, cross-border remote work is here to stay. In the post COVID19, cross-border remote work no longer means mainly frontier work where employees are travelling back to their home country daily or at least weekly. Instead, it is becoming more and more common that an employee negotiates a right to work remotely for months from another country (e.g. Spanish employee in a Finnish company prefers work from Spain during Finnish winter and in Finland during Finnish summer). At the same time, many sectors in the European economy is struggling with a talent shortage, meaning that more and more employees are recruited internationally.
5. As the COVID19 outbreak demonstrates, the possibilities for remote work vary significantly from an EU member state to another due to significant differences in telecommunication infrastructure.
6. For European game developer studios, the current fragmented, complex and unpredictable regulatory framework for remote work causes major challenges:
 - a. **Unfair competitive advantage for big, usually non-European conglomerates:** Most of the European game developer studios are SMEs that do not have subsidiaries in other countries. Even the biggest European game developer studios typically have only a few subsidiaries globally. This causes them a significant competitive disadvantage compared to huge, usually non-European, industry conglomerates that have, for example, a local studio or distributor company in most European countries that they can use to handle bureaucratic challenges related to remote work.

This situation often leads to a double disadvantage for European companies. On the other hand, Chinese or USA-based conglomerates are attracting employees from European companies with higher salaries to work remotely from their home countries. On the other hand, European companies are forced to hire expensive legal consultants to map and handle tax risks connected with remote work, making it extremely difficult for them to hire remote working employees from other European countries to replace the employees they have lost.

- b. **Unfair limitations for the free movement of the people:** Due to tax risks connected with cross border remote work, European companies are often forced to limit the time their employees are allowed to stay in a specific country. This is causing a significant barrier to the free movement of the people between member states. On a global level, complex and burdensome immigration bureaucracy is a significant obstacle for remote work.

STEP 1: Remote work fitness check of EU taxation and social security framework

7. **European one-stop-shop for remote working rules and practices:** The Commission has to carry out an EU-level study mapping all relevant national rules on cross-border remote work from corporate and personal taxation, health care and social security perspectives. This study has to be finalised during this commission term. During the next Commission term, the Commission should update the collected information annually and make it available in Your Europe portal (or in another one-stop-shop) for employees considering hiring remote workers from other countries. In particular, the Commission should pay attention to:
 - a. **Legal certainty on implementation of tax agreements:** The rules on how long a remote working employee from a third country can stay in a country or how long a remote working employee can work from outside the country before it has corporate tax consequences vary from country to country. This causes significant legal uncertainty that can be avoided by making this information easily available.
 - b. **Remote work-friendly social security system and access to health care:** It is sometimes unclear how long an employee can work remotely from another country before they lose or gain access to social security and health care. This causes significant legal uncertainty that can be avoided by making this information fully transparent and easily available.

STEP 2: Building digital infrastructure fit for remote work

8. **Good network Infrastructure:** Remote work requires fast and reliable network infrastructure with unlimited data plans.
9. **Excellent eGovernment services:** EGDF fully supports the idea of introducing one-stop-shops for all remote work-related bureaucracy in national tax administrations. These one-stop-shops should allow mobile workers, employees, and investors to seek relevant and reliable tax information, directly pay taxes, and receive all the necessary certificates for their home country's tax authorities. Furthermore, these one-stop-shops should also cover other remote work-related payments and bureaucracy like social security, health care, collective bargaining agreements and pensions.
10. **A global eSignature:** The EU has to develop a global standard for eSignature, allowing employers and employees to sign contracts and use eGovernment services globally.

STEP 3: Building remote work friendly regulatory framework globally and in the EU

11. **Remote work ready tax agreements and corporate taxation framework:** EU has to start a process in the OECD to build remote work friendly global taxation framework.
 - a. **Corporate taxation:** Currently, according to transfer pricing rules, the location of the key executive directors is one criterion for determining the place of taxation for companies. This criterion will become challenging to implement in the remote working world. Similarly, when some of the employees are so-called “digital nomads” constantly moving from one country to another, it will be increasingly more challenging to implement any international corporate tax framework based on the location of employees. Therefore, the Commission should push OECD to seek greater global alignment in remote work-related tax practices.
 - b. **Personal income taxation and social security contributions:** The EU needs to fully harmonise rules on how EU nationals who live, work or spend time outside their home countries are to be taxed on their personal income. In particular, the EU should pay attention to situations where EU nationals do not spend more than six months in any EU member state over the year. EU member states should encourage remote work by providing specific remote-work related tax deductions in personal income taxation.
12. **Remote work ready EU data protection and transfer rules:** The EDPB and national data protection authorities have to implement data protection and data transfer rules in a way that allows secure data transfers to the countries outside the European Union where European companies have remote workers.
13. **Remote work ready EU copyright framework:** The EU member states have to implement new EU copyright rules in a coherent way. The more fragmented the implementation of the new European copyright framework becomes, the more difficult it is to run a game developer studio with employees located in several different Member States.
14. **Remote work ready trade agreements:** Transparency of the local rules for remote working should be one of the standard items of all trade agreements negotiated by the EU or its member states.

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