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## **FLEXIBLE WORKING HOURS IN LABOR RELATIONS**

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### **ABSTRACT**

The article discusses the regime of flexible working hours in labor relations, as well as issues of working hours, and studied the regulation of this institution in other foreign countries. The provisions on the procedure and organization of work in flexible working hours, the methodology for accounting and monitoring the use of working time, recommendations for evaluating the effectiveness of the use of flexible working hours are also analyzed.

### **KEYWORDS**

Labor law, labor relations, employees, working hours, regime, flexible regime, parties.

### **INTRODUCTION**

The working time mode is a means of increasing the efficiency of working time, since it allows you to produce the same or more products with less effort on the part of the employee. Properly selected and fixed in local regulations, a rational working time and rest regime contributes to the preservation of workers' health, maintaining their high efficiency, rational use of working time, meeting the needs of production and a

combination of public and personal interests. The rationality of the working time regime in labor relations is formed solely on the basis of: the ratio and content of periods of work and rest, high labor productivity combined with high and stable human performance without signs of excessive fatigue for a long time. Such alternation of periods of work \* and rest is observed at different time intervals: during the working shift, day,

week, year in accordance with the operating mode of the organization. The alternation of periods of work and rest has its own patterns during the working day, during the week, month, year.

"The working time mode is set taking into account the phase change in a person's working capacity during the working day. Three phases of working capacity are indicated on the curve: a - the increase in working capacity (expressed in the improvement of psychophysiological indicators of workers and the results of their work. The duration of the phase can last from several minutes to 1.5 hours, which depends on the characteristics of the work performed and the person himself); b - stable high performance (lasts 2-3 or more hours. It is characterized by the lowest labor costs for performing certain work, high quality indicators. At this time, the employee, as a rule, achieves the best results of activity); c - decreased efficiency, fatigue (occurs as a result of accumulated fatigue. Attenuation decreases, reactions to external stimuli slow down, the probability of erroneous actions increases, the speed of solving production tasks slows down, overall work results deteriorate).

After the lunch break, these phases are repeated, but they vary in duration and magnitude: the phase of increasing working capacity is less prolonged, the phase of stable working capacity does not reach the pre-lunch level, the fatigue phase occurs earlier and lasts longer than before the lunch break. "

Thus, the working time regime, firstly, can contribute to the correct distribution of the working time, while the established working time in the accounting period cannot be reduced or exceeded; secondly, it can

ensure the proper flow of the labor process, as well as provide time for rest and performance by workers and employees of personal affairs, not related to the labor function.

There was no classification of working hours at the legislative level, and in the legal literature the idea was expressed about the possibility of classifying working hours on many grounds: by field of activity (general, ordinary, special); by the duration of the calendar period for which they are calculated (intra-shift, weekly, annual); by structure, order of alternation working and non-working periods (shift and non-shift, with permanent days off and sliding, etc.); according to the subject of labor relations (teenagers, female workers, breast-feeding children, etc.); by the nature of the impact on normal working hours (reducing and not reducing the norm of working hours); by the duration (temporary and permanent); by compliance with the law (legal and illegal)<sup>1</sup>

For example, C.Venediktov proposed the following classification: 1) a regime that ensures compliance with the duration of the working day; 2) a regime that ensures compliance with the duration of the working week; 3) a regime that ensures compliance with the duration of the working day and working week for a certain accounting period.

Note that every classification has the features of conditionality and that under certain conditions one phenomenon can turn into its opposite. Thus, M.I. Baru, a representative of the science of labor law, speaking about any classification, noted: "we observe interaction and interpenetration here."<sup>2</sup>

<sup>1</sup> Муксинова Л.А. Проблемы регулирования рабочего времени в СССР. М - Юрид. лит., 1969. 94 с.

<sup>2</sup> Венедиктов В.С. Правовое регулирование рационального использования рабочего времени. Автореф. дис. ... канд.юрид.наук - Харьков, 1983. - 86-87 с.

According to the Labor Code of the Republic of Uzbekistan, the working time regime should provide for the duration of the working week (five days with two days off, six days with one day off, a working week with days off on a rolling schedule, part-time work), work with an irregular working day for certain categories of workers, the duration of daily work (shifts), including part-time work (shifts), the start and end time of work, the time of breaks in work, the number of shifts per day, the alternation of working and non-working days, which are established by the rules of internal labor regulations in accordance with labor legislation and other regulatory legal acts containing labor law norms, collective agreements, agreements, and for employees whose working hours differ from the general rules established by this employer - an employment contract.

Unfortunately, this article does not contain an exact definition of the working hours. Both in the educational and scientific literature, there are certain discrepancies in the definition of the concept of "working time mode". Thus, according to E.P. Smirnova, the working time regime means "the distribution of the working time norm for specific categories of employees within a certain calendar period."<sup>3</sup>

I.O.Snigireva believes that "the working time regime means the form of its organization, i.e. the distribution of the working time norm for certain calendar periods,

taking into account the provision of rest for the employee in this period." V.G. Malov gave a slightly different interpretation of the working time regime. He believed that "the working time regime in labor law refers to the distribution of work time within a day or other calendar period, the beginning and end of daily work (shifts), the beginning and end of a break for rest and meals."<sup>4</sup>

According to E.V.Kondratiev, the mode of working time is its distribution per day, week, start and end of work. The mode also includes the structure of the week, shift schedules, as well as three- and inter-shift breaks in work, the beginning and end of the working day, shifts, weeks. The regime also includes a shift method of work, flexible, sliding schedules<sup>5</sup>. A.M. Kassymov believes that the concept of "working time mode" means the division of the working day during the day or another calendar period.<sup>6</sup>

According to G.V.Khnykin, the working time regime is a multifunctional phenomenon. The working time regime is the most important legal instrument that allows the employer, and in some cases the employee, to use elements of flexibility in the legal regulation of labor relations. The working time regime is used by a number of labor law institutions. First of all, he himself is a sub-institute of the institute of working time<sup>7</sup>.

There is an opinion that the working time regime should be attributed to one of the elements of a complex labor relationship.<sup>8</sup>

<sup>3</sup> Смирнова Е.П. Новые правила регулирования рабочего времени и времени отдыха. М/ Пзд-во «ГроссМедиа», 2007. 128 с.

<sup>4</sup> Трудовое право. Учебник / Под ред. О.В. Смирнова и И.О. Снегиревой. - 3-е изд., перераб. И доп., учеб. - М.: Проспект, 2008.- 600 с.

<sup>5</sup> Кондратьев Е.В. Рабочее время и время отдыха. М.: ООО «Журнал «Управление персоналом», 2006. 152 с.

<sup>6</sup> Касымов А.М. Трудовое право: Учебник. Баку, «Адилоглу», 2007. 560 с.

<sup>7</sup> Хныкин Г.В. Режим рабочего времени: особенности современного периода // Кадровик. Трудовое право для кадровика. 2009, № 8.

<sup>8</sup> Дзугоева З.В. Правовое регулирование режима рабочего времени. Автореф. дис. ... канд.юрид.наук. - М., 2010.-113 с.

As you can see, there are no fundamental differences in the above scientific definitions of working hours. Nevertheless, it is difficult to agree with the position of G.V. Khnykin, who considers the working time regime as a sub-institution of working time; it seems possible for us to investigate the working time regime as an integral part of the labor legal relationship, which the employee is obliged to observe in good faith.

The elements of the working time regime are also interpreted differently by different scientists at the present time. So, Professor I.O. Snigireva in the working time mode includes: a) the time of the start of work; b) the time of the end of work; c) the type of working week; d) the type of working time; e) the duration of the accounting period; f) if necessary, the order of alternating exits to work of certain groups of employees<sup>9</sup>.

In modern conditions, in order to ensure an acceptable level of coordination of individual, collective and public interests during working hours, it is necessary to use (to the legislator, the employer) in the organization of the labor process the data of many sciences: economics, sociology, physiology, jurisprudence and others. It is important that the working time regime is not only the subject of legal science research, it is also studied in such fields as psychology, labor physiology, "the study of these sciences is based on phenomena that occur or may occur in the human body - in his psyche and physiology - in the process of work. It is known that with a stressful type of work, with prolonged work, for example, when breaks for short-term rest or in cases when employees are not provided with vacation time in a timely manner, employees

experience nervous overload, so-called psychological fatigue accumulates, sometimes it is called industrial fatigue."<sup>10</sup>

The flexible working time regime became widespread in some enterprises of our country, both among employees of the management apparatus and production structural units in the early 70s - 80s. "The first use of such a labor regime occurred in the USSR in 1972 at a slate processing enterprise in the city of Kohtla-Järve (Estonia)"<sup>93</sup>.<sup>11</sup> Already in 1980, flexible schedules were used in 13 labor collectives. And in the 80s. it has been introduced at hundreds of industrial enterprises and associations, in research institutes, design organizations in different regions of our country.

Flexible working conditions began to be applied in cases when, for some reason (domestic, social, etc.), the further application of conventional schedules was difficult or ineffective. In practice, it was usually called a "flexible work schedule", it allowed, at the request of an employee, depending on his individual needs, to shift the start and end of the working day to an earlier or later time relative to the operating mode established at the enterprise.

Already at that time, the flexible schedule predetermined the boundaries of the possible start and end of work, as well as the time of mandatory attendance at work, which was a fixed (mandatory) part of the working day, and the preceding and subsequent time was a flexible part of it, during which, at will (but with the knowledge of the immediate supervisor), the employee could get to work, leave work, and take a lunch break at any or pre-determined

<sup>9</sup> Снигирева И.О. Табачее время и время отдыха: Учебно-практическое пособие. М.: «Проспект», 2000. 160 с.

<sup>10</sup> Мамедов О.Д. Режим рабочего времени и его основные правовые формы // Трудовое право, 2009, № 4.

<sup>11</sup> Дзугоева З.В. Правовое регулирование режима рабочего времени. Автореф. дис. ... канд юрид. наук. - М., 2010.-113 с.



time. The duration of the flexible part of the working day was usually set within 1.5-2 hours.

Flexible working hours were used not only for individual, but also for the brigade form of labor organization. The introduction of a flexible work schedule in teams, as well as the permission to work on such a schedule for individual employees, was issued by the order of the head in coordination with the trade union committee, which determined the beginning and end of the working day, as well as the periods of mandatory attendance and flexible part of working time.

At that time, according to the assessment of managers of enterprises where flexible working hours were used for a relatively long time (three, five or more years), such a working day schedule had a number of advantages: reducing the loss of working time (since with a flexible work schedule, the absence time had to be worked out during the accounting period); reducing the use of overtime; reduction of cases of being late for work and leaving it prematurely, etc. In addition, problems related to the simultaneous arrival and departure of a large number of employees were solved at large enterprises. The introduction of a flexible schedule helped to reduce staff turnover, as a result of which the costs of their training were reduced.

Currently, the main source of legal regulation of working hours is only one article of the Labor Code of the Republic of Uzbekistan, which contains only general provisions that when working in flexible working hours, the beginning, end or total duration of the working day (shift) is determined by agreement of the parties. At the same time, the employer ensures that the employee works out the total number of

working hours during the corresponding accounting periods (working day, week, month and others). This article does not even contain the concept of "flexible working hours".

"A flexible work schedule is a special working time regime, which is established by agreement of the parties to the employment contract."<sup>12</sup> It can be established both when applying for a job and in the course of work, and both for a certain period and without specifying the term. The establishment of a flexible working time regime for an already working employee, as a rule, is issued by an order of the employer. The use of flexible working hours does not affect the provision of benefits, the calculation of work experience and other labor rights, does not change the criteria for evaluating, rationing and remuneration of employees. And, finally, an entry in the workbooks of employees is made without specifying such a mode of work.

Among the necessary elements of the flexible working time regime, the legislator identifies: variable (flexible) time at the beginning and end of the working day (shift), within which the employee has the right to start and finish work at his discretion; fixed time - the time of mandatory stay at work of all employees in accordance with the flexible working time regime.

Along with the fixed, the presence of two intervals of variable time allows you to work out the required total number of working hours in the accounting period; a break for food and rest usually divides the fixed time into two approximately equal parts; the duration of the accounting period, which determines the calendar time (week, month, etc.) during which everyone must work out the statutory norm of working hours.

<sup>12</sup> Миронов В.И. Трудовое право России: - М.: ИД «Интел-Синтез», 2005. С. 502.

Thus, the working day, when applying a flexible working time regime, is conditionally divided into 3 parts: two flexible time intervals - at the beginning and at the end of the working day and a solid interval between them, divided, in turn, also into two parts by a lunch break.

I.Ya. Kiselyov was one of the first scientists to give the clearest definition of the flexibility of legal regulation of labor relations. By flexibility, he meant "maximum consideration by all institutions of labor law of the complexity and diversity of modern social reality, the need to develop a feedback mechanism of labor law and the constantly changing situation on the labor market, market conditions, taking into account the peculiarities and uniqueness of various market segments, specifics in the application of labor of various categories of workers." <sup>13</sup>Thus, from a legal point of view, flexibility is manifested in "the use of new forms of labor organization, the emergence of atypical labor relations, the conclusion of a variety of atypical labor contracts, both provided for and not provided for by current legislation." <sup>14</sup> This, in turn, makes it possible at the macroeconomic level to reduce the number of unemployed, providing an opportunity, including for the most vulnerable categories of the population in the labor market to earn income, maintain their skill level, and for the enterprise to manipulate the volume of labor used at the microeconomic level when production needs change.

Let's turn to foreign experience, since flexible working time models have been common at enterprises in many countries for 20 years.

In Sweden, flexible hours or flexible working hours (called flextid in Swedish) were first applied in the 1960s under pressure from trade unions. However, its advantages - increasing labor productivity, reducing the number of absenteeism, improving the well-being of employees - soon became obvious to employers. According to recent research, Sweden ranks among the first in the European Union in terms of working time flexibility. " This allows employees to find the optimal balance between work and family life.

Currently, various flexible working time programs are used. More than half of employers in the public and private sectors provide their employees with a certain flexibility in choosing working hours - the beginning and end of the working day. For example, "in the Swedish State Tax Administration (Skatteverket), a collective agreement gives most employees the opportunity to choose their working hours.

In Norway, many companies have also relied on a flexible schedule, since such a regime makes it possible to work for results. This is what is considered the main criterion of professionalism of any employee. Perhaps that is why there are more stable family relationships in these countries, the divorce rate is lower, since a flexible regime allows them to devote more time to children.

There are traditionally a lot of people working in the UK, and it is believed that Britons work more than workers in other European countries. For this reason, UK employers are increasingly introducing flexible working hours.

Summing up and taking into account that at present "a decisive role in the development of modern labor

<sup>13</sup> Киселев. И. Я. Новый облик трудового права стран Запада (прорыв в постиндустриальное общество) - М, 2003. С. 68.

<sup>14</sup> Шабанова. М.А. Особенности правового регулирования нетипичных трудовых договоров. Автореф. дис. ...канд юрид.наук: Я., 2008 - 21 с.

legislation and the practice of its application is played by strengthening the flexibility of legal regulation of labor relations " " we believe that the article alone in the Labor Code of the Republic of Uzbekistan is clearly insufficient for the legal regulation of work in flexible working hours. To this end, we consider it expedient to include in the Labor Code of the Republic of Uzbekistan a chapter that would regulate flexible working hours in full.

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