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## ***Long working hours: trends and effects***

Working time is one of the central institution of labour law. The duration, organisation and predictability of working time has long been an important issues of political and social debate.

Topical issues of legal regulation of working time is the subject of study of Ukrainian and foreign scientists, such as: M. Alexandrov, N. Bolotina, V. Venediktov, L. Ginzburg, V. Glazyrin, G. Goncharova, V. Zhernakov, M. Inshyn, RZ. Livshits, V. Nikitinskyy, J. Orlovsky, A. Pashkov, S. Prylypko, A. Protsevskyy, A. Smirnov, G. Chanysheva, O. Yaroshenko, as well as C. Alpin, D. Anxo, A. Beauregard, P. Berg, H. Bewley, G. Bosch, A. Bryson, B. Burgoon, J. Charest, G. Dix, M. Fassmann, C. Franz, J. Forth, S. Folkard, R. Gammarano, I. Guardiancich, S. Hayter, L. Henry, B. Kersley, A. Kummerling, S. Lee, S. Lehndorff, P. Marginson, D. McCann, H. Muensterberg, J. O'Reilly, S. Oxenbridge, D. Raess, K. Sisson, P. Tucker, J. Visser, H. Wilson, etc.

The purpose of this article is to research issues of ensuring the minimum safety and health requirements concerning certain aspects of the organisation of working time, its impact on work–life balance.

Legislation plays an essential role in the definition of the length of working time in Ukraine. The statutory duration of the working week in Ukraine is 40 hours according to the current Labour Code. The duration of the working day before a holiday or a weekend shall be reduced by one hour. In the case of a six-day working week, the duration of the working day before the weekend cannot exceed five hours.

It is important to note that the general rule is that overtime is not allowed. The Labour Code provides an exhaustive list of exceptions when an employee may be required to work overtime. The maximum limit of overtime work is 120 hours per year. Overtime work also shall not exceed four hours over two consecutive days for the same employee.

As will be recalled the reduction of working hours was one of the original objectives of labour law. The primary technique towards achieving this goal, mandating of limits on the hours that can be worked in each day or week, was first reflected in laws enacted in European countries in the mid-nineteenth century to reduce the working hours of children.

The Universal Declaration of Human Rights recognizes a right to rest

and leisure that encompasses a 'reasonable limitation' of working hours. And the International Covenant on Economic, Social and Cultural Rights includes working hours limits as elements of the right to just and favourable working conditions. Working time limits are also included in more recent regional human rights instruments: in the Revised European Social Charter, Charter of Fundamental Rights of the European Union .

Normal hours of work are, according to the ILO, the hours that workers are expected to spend on work activities during a short reference period such as 1 day or 1 week, as stipulated in laws or regulations, collective agreements or arbitral awards, or establishments' rules or customs.

Obviously, normal working hours usually refer to the maximum working hours to be performed by full-time workers.

Duration of working time includes issues such as the number of hours worked, part-time versus full-time work, overtime or 'extra-time', very long/short hours and, of course, the issue of how to measure working time. For instance, standard maximum working hours in EU Member States are defined on the basis of different periods of time. There are also cases of countries where monthly and annual limits are used to obtain more flexibility in the organisation of working time [1, p. 67].

Herewith, long working hours leads to an increase in social tension and confrontation.

Hundreds of thousands of protesters – including university students, high-school pupils and trade unionists – staged demonstrations across France in a wide-reaching movement. Union members, students, and their supporters protest the labour reform that gives employers more leverage on March, 9, 2016. Thousands of people gather on the Place de la République to protest the controversial labour reform bill proposed by President Francois Hollande in Paris.

The contested labour reform would amend France's 35-hour workweek, voted in 2000 by the Socialists and now a cornerstone of the left. The proposal technically maintains the 35-hour workweek, but allows companies to organize alternative working times up to a 48-hour workweek and 12 hours per day. In "exceptional circumstances," employees could work up to 60 hours a week [2].

Desperately needed labour reforms are to start by changing the rules on the short week in an effort to make France more business-friendly.

The short working week was introduced under a Socialist government in the 1990s with the aim of spurring job creation.

Companies currently have to pay between 10 and 50 per cent extra per hour if they want employees to work more than 35 hours a week, but they are now to be given the right to renegotiate longer hours and lower overtime pay with staff [3].

The labour code (Code du Travail) has traditionally been regarded in France as untouchable, with successive governments making piecemeal amendments to its 10,000 articles, lifting restrictions on layoffs and working hours, but without a comprehensive overhaul.

The government's draft law aims to amend the 35-hour working week and relax other labour rules. Although the 35-hour week would remain as the foundation, but the proposal would allow companies to organize alternative working times without industry-wide deals [4].

France's labour regulations have famously been symbolised by the labour code, a weighty 3,800-page tome. But the government wants to loosen a number of rules on hiring and firing. It will give employers more scope to lay off workers and cut costs, allow some employees to work far longer than a 35-hour week and make it easier to fire workers on economic grounds when companies run into difficulties [5].

Furthermore, long working hours leads to decreased total output.

Overwork leads to decreased total output. Productivity during 60 hour weeks would be less than two-thirds that of what it was when 40 hour weeks were worked. It may be the case that employees simply become much less efficient: due to stress, fatigue, and other factors, their maximum efficiency during any given work day may become substantially less than what it was during normal working hours. Thus, overworked employees may simply be substantially less productive at all hours of the work day, enough so that their average productivity decreases to the extent the additional hours they are working provide no benefit. Also overworked employees using heavy machinery are much more likely to injure themselves and to damage or otherwise ruin the goods they are working on [6].

Ernst Abbe, the head of one of the greatest German factories, head of the Zeiss company, wrote many years ago that the shortening from nine to eight hours, that is, a cutting-down of more than 10 per cent, did not involve a reduction of the day's product, but an increase, and that this increase did not result from any supplementary efforts by which the intensity of the work would be reinforced in an unhygienic way. This conviction of Abbe still seems to hold true after millions of experiments over the whole globe. Abbe discovered that shortening work hours while keeping working conditions unchanged led to an increase in total output [7].

Productivity – output per working hour – improves with shorter hours. Across the world's richest countries, higher productivity correlates with lower working hours. All this means that we may well be able to work a shorter week and get just as much done. The 20th-century British economist John Hicks said: "It has probably never entered the heads of most economists ... that hours could be shortened and output maintained [8]."

According to the draft Labour Code of Ukraine, which was passed on first reading in the Ukrainian Parliament, the

duration of daily work within the working week should be generally the same. Collective agreement and if it is not concluded – normative act of the employer, consistent with the elected body of primary trade union organization (trade union representative), duration of daily work can be extended, but not more than ten hours, subject to a weekly norm of working time established by law (article 138) [9].

Nevertheless, systematic analysis of articles 1, 2, 4, 9-10, 11, 17 of the ILO Convention № 29 "On Forced or Compulsory Labour" assures that the legal requirement of art. 138 of the draft Labour Code, unfortunately, actually establishes forced or compulsory labour. Ten-hour working day – this is not the overtime, this is the norm of daily work of employees, and therefore requires its consent, not only the consent of the elected body of primary trade union or trade union representative, or the fixation in a collective agreement with a mandatory reduction in the working week up to 3-4 days [10, p. 15].

Attention should be drawn to the relationship between non-standard working hours and indicators of health and productivity. It found that employees who routinely worked overtime or who worked shifts were more being emotionally exhausted and more likely to be overweight or obese. Employees who routinely worked overtime, in shifts, or in the evening and at night were also more likely to have accidents at work and more likely to neglect family activities because of work. Significantly, they were also more likely to omit or neglect duties at work because of family responsibilities [11].

Working irregular or extended hours can have negative consequences for health and well-being owing to the stress of interference with psychophysiological functions and social life.

The potential chronic effects of abnormal work schedule features on mental health appear at a different level from those on physical health and safety. This is because impaired mental

health may underlie some negative safety and physical health outcomes, especially those for which “stress” is considered a causal factor. Mental health effects are seen as stemming from the acute effects of work schedule features on mood, but also as feeding back into and exacerbating the latter. Thus, the well-known “vicious circle” may develop in which persistent bad moods may spiral downwards into depression. There is a reasonably consistent literature showing that abnormal work schedules, especially those involving night work, may result in increased levels of anxiety and depression, and this includes at least two longitudinal studies.

The adverse consequences of working hours and work schedules are seen as stemming from disturbances to individuals’ sleep, biological rhythms and family and social life. The extent of these disturbances will depend not only on the precise nature of the working hours and work schedule but also on a number of moderating factors, such as situational, organizational and individual differences. The immediate consequences of these disturbances are various, but include impaired mood and performance. Individual coping strategies will determine the extent to which these result in longer-term consequences such as physical and psychological ill health, and reduced safety. Many such consequences stem from increased levels of fatigue, which may be viewed as a biological drive for recuperative rest [12, p. 7-10].

Many modern workplaces are experimenting with accommodating changes in the workforce and the basic structure of scheduled work. There has been growing public interest in the growth of zero hours contracts, where people are placed on a contract under which the employer is not obliged to offer regular work.

Zero hour contracts are where an individual is not guaranteed work and is paid only for the actual hours of work offered by the employer and carried out. Employees have to be available as and

when an employer needs them. Under the National Minimum Wage and Working Time legislation (UK), the practice of employers asking employees to “clock off” in quiet periods but remain on the premises is illegal. There are three primary reasons why zero hours contracts might be used: a) demands of the job: where work is erratic and highly unpredictable, varying from day-to-day and week-to-week, they can be the most effective and cost-efficient way of matching labour demand and supply; b) evading employment rights: firms may designate individuals as workers rather than employees: workers are not entitled to protection against unfair dismissal, maternity rights, redundancy rights; c) meeting individual flexibility: for some employees, a zero hours contract may be attractive in that they chose when and where they work, or it is a supplement to a main job, or the potential insecurity of income is not a major concern – for example, a retired person who wants to do some occasional work [13].

Zero-hours contracts seem to have been widely used in industries such as tourism and retail for some time. However, they are being used increasingly across a wider range of sectors. Many teachers, journalists and lawyers are also on zero-hours contracts. Certain groups of people are more likely to be on zero-hours contracts, such as people under 25 or over 65 years of age [14].

Also, zero-hours contracts can be used to provide a flexible workforce to meet a temporary or changeable need for staff. Examples may include a need for workers to cover: unexpected or last-minute events (e.g. a restaurant needs extra staff to cater for a wedding party that just had their original venue cancel on them); temporary staff shortages (e.g. an office loses an essential specialist worker for a few weeks due to bereavement); on-call/bank work (e.g. one of the clients of a care-worker company requires extra care for a short period of time).

However, views are divided on the issue of non-standard forms of employment. But this is especially true that working permanently at night or working shifts, as well as working more than 40 hours a week, affects health and sleep habits in a negative way. In addition to these negative impacts on one's health, deviances from the standard working day may exert extra pressure on the organisation of one's social life, including family, friends but also household duties.

Establishments with unusual working hours encountered problems with sickness and absenteeism more frequently than companies with no such working hours, or only a small incidence of unusual working hours. Moreover, it appears that any use of unusual working hours – even where the number of employees concerned is small – increases the probability that managers report more sickness problems. According to manager assessment, the situation appears to be worse in establishments that have night work and changing working hours – for both incidences, data indicate that the likelihood of encountering difficulties with sickness and absenteeism is 1.6 times greater than in establishments that do not observe such hours. As for the incidence of weekend work, data show similar results for both the cases of Saturday and Sunday work. Here, the likelihood of sickness and absenteeism problems is still 1.3 times greater compared to establishments that do not require staff to work on the weekend [15, p. 30].

Standard working days in the EU are usually Monday to Friday, with weekend work being considered as 'atypical'. Trading and working at weekends, particularly on Sundays, has been traditionally influenced by historical, cultural, touristic, social and religious considerations. However, since 2014, there have been some developments in business opening hours and working on Sundays.

A report published by Eurofound in 2007 showed that many European

companies were open for business at weekends, with 25% of the establishments in the EU21 requiring at least 20% of their employees to work on Saturdays, and with 15% requiring employees to regularly work on Sundays. Saturday and Sunday work was most common in sectors such as hotels and restaurants, health and social services, and other community, social and personal services. The larger the businesses, the higher the incidence of weekend work. Weekend work was particularly common in the UK, as well as in Germany and Sweden. However, the incidence of such work was below the EU21 average in Hungary, Poland, Portugal and Spain. The same research found that Sunday work seems detrimental to the health of workers: the likelihood of sickness and absenteeism problems in establishments operating on Sundays is greater compared to establishments that do not require staff to work on Sundays [16].

To summarise, long working hours leads to an increase in social tension and confrontation. It is also very common for overwork to lead to increased stress and depression among workers and therefore to decreased total output. Hence, extended working hours is a big cause of mental ill health that linked with an increased risk of stroke and heart disease. Furthermore, long working hours have also been connected to absenteeism and employee turnover.

Consequently, employers should be aware of the negative effects of the psychosocial hazards that may affect workers as a result of overwork and lack of control over their tasks, with the consequences of work-related stress and related coping behaviours and health outcomes. Unfortunately, many people are only conscious that a harmful stress level has been reached once its negative effects have affected their work and wellbeing.

Thus, it is clear that low pay and long-hours working must be tackled at the same time and is necessary to ensure a predictable and reasonable duration of working time need to ensure that

working hours are predictable and reasonable.

Finally it is important to mention that the Ukrainian social partners should be able to promote a healthy

working life and to build of a preventive culture is a shared responsibility of governments, employers and workers, health professionals and societies as a whole.

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### **Лагутина І. В. Ненормований робочий день: тенденції та наслідки**

У статті визначається значення робочого часу на сучасному етапі розвитку трудового права. Досліджено проблеми, пов'язані з розвитком правових положень про робочий час в Україні і в зарубіжних країнах.

Підкреслюється, що як правове явище, робочий час визначає міру участі працівників в сукупному праці, необхідному для існування всього суспільства, забезпечуючи наявність часу відпочинку, необхідного для відновлення витрачених в процесі праці життєвих сил, збереження здоров'я, розвитку особистості.

Аналізується проблема законодавчого врегулювання тривалості робочого часу, що має важливі наслідки для суміщення найманої праці з сімейними обов'язками і приватним життям, а також для стану здоров'я і безпеки, рентабельності підприємств.

У статті зазначається, що аналіз Конвенції МОП № 29 «Про примусову чи обов'язкову працю» переконує, що правовий припис ст. 138 проекту Трудового кодексу, на жаль, фактично закріплює примусову чи обов'язкову працю. Десятигодинний робочий день – це не надурочна робота, це норма щоденної роботи працівника, а тому потребує згоди, а не тільки згоди виборного органу первинної профспілкової організації чи профспілкового представника, або встановлення у колективному договорі з обов'язковим зменшення робочого тижня

За останні десятиліття спостерігалася помітна тенденція відхилення від нормальної тривалості робочого тижня і переходу на більш гнучкі форми організації робочого часу із застосуванням більш різноманітних варіантів регулювання робочого часу.

Режими робочого часу повинні сприяти безпеці та гігієні праці; бути сприятливими для всієї родини; сприяти гендерній рівності; стимулювати рентабельність і конкурентоспроможність підприємств; а також надавати працівникам право вибору і зміни нормативної тривалості свого робочого часу. Забезпечення гідного робочого часу здійснюється не тільки на користь працівникам, а й підприємствам з різних причин, наприклад, внаслідок того, що підвищується продуктивність, скорочуються випадки невиходу на роботу і плинності кадрів, а також поліпшується моральний стан працівників, що може привести до отримання більш високого прибутку.

Правове регулювання робочого часу повинно бути спрямовано на гармонізацію трудової діяльності працівника з іншими сторонами його життя і, в той же час, виходить з вимог державної соціальної політики.

Ефективне використання робочого часу, впровадження раціональних режимів праці та відпочинку, особливих режимів робочого часу сприяє розвитку трудових відносин, а отже – досягненню позитивного економічного і соціального ефекту.

**Ключові слова:** робочий час, тривалість робочого дня, нормальна тривалість робочого часу, надурочна робота, охорона праці.

### **Лагутина И. В. Ненормированный рабочий день: тенденции и последствия**

В статье определяется значение рабочего времени на современном этапе развития трудового права. Исследованы проблемы, связанные с развитием правовых положений о рабочем времени в Украине и в зарубежных странах. Проанализированы особенности нормальной продолжительности рабочего дня.

**Ключевые слова:** рабочее время, продолжительность рабочего дня, нормальная продолжительность рабочего времени, сверхурочная работа, охрана труда.

**Lagutina I. Long working hours: trends and effects**

The article determines the working time value at the modern stage of development of labour law. The problems associated with the development of the legal provisions on working time in Ukraine and in foreign countries were examined. The features of normal working hours were analysed.

**Key words:** working time, the duration of the working day, normal hours of work, overtime, occupational health and safety.