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Flexible Working Time Arrangements in FYR of Macedonia

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Introduction

Working hours are one of the central issues of a modern employment relationship. Nowadays, the effort is included in a time frame that involves a deep legal, as well as sociological, family, psychological and economical meaning. In a sense, the employment relationships themselves represent a part of the historical battle for decreasing and organising working hours.

Working hours and their organising are important, but it is not the only issue regulated and studied within labor law. Today they enter the agenda of the so called flexible forms of employment, i.e. as part of the new employment forms. Actually, the issue of employment and decreasing of the unemployment rates is a major challenge of the modern employment relationship and the economical systems worldwide. Actually, in order to solve the unemployment issue as a social-and-economic complex, this legal institute needs to be edited legally. And not only that, but the legal framework should also be the basis and the springhead of the establishment of facilitating mechanisms for encouraging higher rates of employment, firstly of young people within a country¹.

It is in this context that we can locate the issue of working hours as part of new means of flexible employment. Flexible working hours stem from the "central" concept of the employment relationship that implies indefinite, or full-time employment mainly organised in an 8 hours 5 days working week². Flexibility means abandonment of this model and setting up several variations of contracts with flexible working hours such as a definite time contract, working at home, part-time work, flexible working hours, self employment, tele-working, seasonal work, etc.

In Macedonia, in the past, the establishing of an employment relationship expressed through an employment contract of indefinite time and full-time was preferred. But this form of contract and establishing an employment relationship was typical for the socialist economic relations where the dynamism of labour relations and fluctuations of input and output in labour were reduced to minimum. Today, the Macedonian labour rights reality is trying to establish a legal relationship that would suit the "new" market-capitalist economic relations. In such conditions, the flexibility of labour, expressed through various contracts with flexible working hours should aid in the achievement of a strategy to reduce unemployment, as well as employment of some so-called marginalised groups of citizens such as people with special needs, juveniles and young adults, and further employment of women and especially single mothers.

In the past, and one might say even today, in Macedonia, the socio-economic conditions and the level of their development have led to a conclusion that their

¹ Jovevski Lazar, „Aspektite na fleksibilnitate formi na vrabotuvanje, realnost i perspektivi“, Godisnik na Pravniot fakultet Justinijan Prvi, Skopje, 2006, p. 857.

² Brajic Vljako, „Radno Pravo“, Savremena Administracija, Beograd, 2001, p. 147.

normative is not being met, that they aren't given too much importance, while on the side of the practice it looks more as if they were incorporated by the employers. This is due to the unequal relationship between demand and supply of labour force in the market, or rather the large supply and unemployment that is more than 30%, which puts this country in the lead in European terms. On the other hand, European experience shows that over 60 million people are employed in flexible forms of employment³.

Given the Macedonian conditions, it is estimated that to a certain extent contracts with flexible working hours may contribute to the relaxation of the labour market expressed through new jobs, primarily for youth. However, the legal framework does not provide more space for the realisation of this.

Macedonian Norm and Practice Reality

Certain flexible forms of employment were present in the past in the Labour Law of 1993⁴. These were: part-time working relations, contract work engagement, part-time work, and with the amendments of 2003, working at home was introduced. The Labour Law of 2005⁵ that has still been applied incorporated some of those flexible forms, but also introduced some new ones.

Article 46 Paragraph 1 of the current Law provides for an opportunity for an employment relation to last 5 years with a break or without one. This solution is atypical in terms of comparative legal systems regarding the length of employment. In terms of working time, special provisions are not provided in this flexible form of employment. The working hours are legally stipulated at 40 hours per week or 8 hours a day in typical cases. The employer is the one who organises the working hours in the sense of how they are to be used by an employee. In Macedonian practice, this usually means 8 hours in a 5 day working week. Also, seasonal work has been taken into account, but there are separate provisions relating the working time that state that what we have here is working hours that are unequally distributed. Therefore we can say that seasonal work by the time of its execution is a typical example of a contract with flexible working hours, although in its essence, seasonal work is something else. Otherwise one should mention that law considers seasonal work as part of definite working hours.

A solution provided for in Article 53 of the Labour Relations Law that has regulated for the first time since 2005 the employment of house servants, or as the law says, house aides, is welcome. This kind of hiring a *de facto* labour existed in the past, but was left to the so-called work on the black market. This way, we can set a framework for the protection of these workers that represent a certain marginalised group in relation to other professions.

The Macedonian Labour Relations Law envisages part-time work (Article 48), and part-time work for more employers (Article 49) is envisaged. In these cases the rights of employees through such contracts are considered the same, i.e. are levelled like in the

³ Source: eurostat

⁴ *Official Gazette of the Republic of Macedonia*, No. 80/93.

⁵ *Official Gazette of the Republic of Macedonia*, No. 62/05.

case of the employees with indefinite time contracts, but only to the extent proportional to the given time. This primarily refers to the rights of social insurance⁶.

Also, the 2005 Law, provides for working at home (teleworking Article 50) as one of the models of new flexible forms of work, although the institute has been known for a while in many European countries.

As far as the split working hours are concerned, for example several hours in the morning and several in the afternoon, it is envisaged that they are regulated according to the employer's needs and will. The need for such working hours is increasing, and it should meet the needs of the employees as well as those of the citizens in the new socio-economic and social relations.

Dilemmas and Challenges

The issue of flexible forms of employment (contracts) is very popular, especially in the changed political and socio-economic relations. They represent a certain "valve" that channels shocks in the labour market. Macedonian conditions and needs are specific especially if you consider that out of 500,000 employees around 100,000 are employed through contracts with flexible working hours. Macedonia slowly catches up with other countries in the world in terms of new flexible forms of employment, but there is still more to be made in order for the legislation to follow the modern economic and technological changes. But why is flexibility of working hours so popular?

First, because this approach to work is more adequate to the increasingly tough competition in the labour market, developed under the conditions of globalisation of the economy. Globalisation itself, in turn, requires a resilient response to the workforce that can be provided exactly through contracts with flexible working hours⁷. This makes quantity, regime and duration of the work easier to adapt to the new needs of the labour market⁸. However, in law as well as life most things have a good and a bad sides. Which is why we need to be careful which solutions we have accepted and how we accept them, in national frameworks in particular, because due to certain specifics all of them do not always give the same (positive) results. It should be immediately stressed that the strengths the contracts with flexible working hours have inherent are not disputable, however one should be aware of some of their weaknesses.

Given the Macedonian conditions, the market mechanisms have not reached their maximum yet, and the flexible forms have not been developed to the extent of most EU countries. Today, there is a tendency towards reducing the workers' rights, which have dragged on as the relapse of socialism in the past years. This affects the additional increase of the popularity and the need of contracts with flexible working hours. Likewise, lowering of the unemployment in this country, the priority number one of all successive governments, can be aided with these arrangements. But, it seems that this is not taken seriously. On the other hand, the priority of the workers in Macedonia is to get out of the flexible employment relation and into an indefinite full-time relation. In other words, not even the workers are always positively tuned for this kind of employment. Our experience and analyses say that a great number of employees in the public and state-run sector have been employed right under those same

⁶ According to Convention 175 of ILO, social security of the part-time workers should be the same as for the full-time workers. No matter whether these standards have been ratified or are not binding, however, they represent a measure of what is necessary or just.

⁷ Jovevski Lazar, op.cit., p. 862.

⁸ Jasarevic Senad, „Fleksibilne forme zaposljavanja“, Radno i socijalno pravo, no. 1/3, Beograd, 2002, p. 56.

arrangements with flexible working time, which is not usual. On the contrary, it is economy that should be the promoter of this kind of employment. But since in Macedonia the state is the largest employer, this kind of condition should not surprise us. In fact, that is one of the specifications of the Macedonian labour market.

The workers employed over these contracts with flexible working hours quite often are not organised in unions, which would be an additional problem in the Macedonian conditions because of the undeveloped system of the union movement. The employees within the frames of the contracts with flexible working hours most commonly adapt to the needs and demands of the employer, which in practice most of the time means direct abuse of the rights of the working relations with the workers. When you take into account the number of unemployed who are on the lookout for a chance for a job, the silence of the workers and their withstanding all the conditions at work should not surprise us.

We believe that in the Macedonian frameworks, employment contract with flexible working hours should be additionally regulated by law and adapted to the authentic needs with the aim of increasing actualisation and decreasing abuse. Furthermore, adequate education of workers for their professional advancement is required. Unions should become more involved in both promotion of the new flexible norms of work and safeguarding the workers' rights within this contracts.

All in all, we can say that Macedonia is looking at an opportunity as well as a challenge that needs to be accepted on behalf of approximation to the European and the world standards and overcoming certain issues connected to unemployment and the current economic crisis.