

**Oleg M. YAROSHENKO, Olena H. SEREDA, Volodymyr M. HARASHCHUK, Leonid V. MOHILEVSKYI, Alla M. YUSHKO**

*Non-fixed working hours in the context of globalisation: the impact of international trends on Ukrainian legislation and employers' practices*

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# Secção I

## Investigação Científica\*

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## Non-fixed working hours in the context of globalisation: the impact of international trends on Ukrainian legislation and employers' practices

### Horários de trabalho não fixos no contexto da globalização: o impacto das tendências internacionais na legislação ucraniana e nas práticas dos empregadores

Oleg M. YAROSHENKO<sup>1</sup>

Olena H. SEREDA<sup>2</sup>

Volodymyr M. HARASHCHUK<sup>3</sup>

Leonid V. MOHILEVSKYI<sup>4</sup>

Alla M. YUSHKO<sup>5</sup>

**ABSTRACT:** Globalisation and information technology are having an active impact on various spheres of society, from the economic sphere to labour relations. The direct impact on the labour sphere can be seen in the change in trends in the definition of working hours, as today there are more opportunities for compromise between employees and employers on setting working hours and agreeing on the possibility of non-fixed working hours. This has resulted in flexible working arrangements. The purpose of this study is to identify the benefits of non-fixed working hours and to analyse the challenges faced by participants in labour relations when establishing flexible working hours in the context of globalisation. It is important to study global patterns and trends in the introduction of flexible working hours at the international level, taking into account international regulations. It is also advisable to assess the impact of international recommendations on the formation of national labour legislation in the framework of non-fixed working hours. The findings will serve as a basis for further research in this area and will contribute to the development of recommendations for adapting the current legislation to the realities of today, the rapid development of information technology and globalisation.

**KEYWORDS:** globalisation; flexible working arrangements; non-fixed working hours; productivity; employment contract.

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<sup>1</sup> Department of Labor Law, Yaroslav Mudryi National Law University, 61024, 77 Pushkinska Str., Kharkiv, Ukraine. oleg-yaroshenko@edu-knu.com

<sup>2</sup> Department of Labor Law, Yaroslav Mudryi National Law University, 61024, 77 Puskinska Str., Kharkiv, Ukraine, osereda3@gmail.com

<sup>3</sup> Department of Administrative Law, Yaroslav Mudryi National Law University, 61024, 77 Pushkinska Str., Kharkiv, Ukraine. vladimir.n.g.0312@gmail.com

<sup>4</sup> Department of Labor and Economic Law, Kharkiv National University of Internal Affairs, 61080, 27 L. Landau Ave., Kharkiv, Ukraine. mogilewskiu@gmail.com

<sup>5</sup> Department of Labor Law, Yaroslav Mudryi National Law University, 61024, 77 Pushkinska Str., Kharkiv, Ukraine. alla.yushko2015@gmail.com

**RESUMO:** A globalização e a tecnologia da informação estão a ter um impacto ativo em diversas esferas da sociedade, desde a esfera económica até às relações laborais. O impacto direto na esfera laboral pode ser observado na mudança de tendências na definição dos horários de trabalho, uma vez que hoje existem mais oportunidades de compromisso entre trabalhadores e empregadores na fixação de horários de trabalho e na possibilidade de horários de trabalho não fixos. Isto resultou em acordos de trabalho flexíveis. O objetivo deste estudo é identificar os benefícios dos horários de trabalho não fixos e analisar os desafios enfrentados pelos participantes nas relações laborais ao estabelecerem horários de trabalho flexíveis no contexto da globalização. É importante estudar os padrões e tendências globais na introdução de horários de trabalho flexíveis a nível internacional, tendo em conta as regulamentações internacionais. É também aconselhável avaliar o impacto das recomendações internacionais na formação da legislação laboral nacional no âmbito dos horários de trabalho não fixos. As conclusões servirão de base para futuras investigações nesta área e contribuirão para o desenvolvimento de recomendações para adaptar a legislação actual às realidades de hoje, ao rápido desenvolvimento da tecnologia da informação e à globalização.

**PALAVRAS-CHAVE:** globalização; acordos de trabalho flexíveis; horário de trabalho não fixo; produtividade; contrato de emprego.

## Introduction

Globalisation and the development of information technologies have had and continue to have a significant impact on the development of the labour market, transforming and modifying its traditional form. According to the OECD Employment Outlook 2019, such changes are very rapid and large-scale, as is the development of technology, which is a logical and interconnected phenomenon<sup>6</sup>.

Thanks to globalisation and the penetration of information technology into the workplace, the workplace is becoming more flexible for employees, and working hours are no longer fixed. This, in turn, frees employees from being actually tied to a workplace, as advanced computer technology has eliminated the need for geographical proximity. As a result, the distribution of labour functions is now much more balanced. At the same time, outsourcing is gaining momentum<sup>7</sup>.

The aim of this study is to identify the benefits of non-fixed working hours and to analyse the problems faced by participants in labour relations during the

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<sup>6</sup> MALIUHA, L.J., ZHURAVEL, V.O., SHABANOVA, S.O., HNIDENKO, V.I., and PIKUL, V.P. Legal Conflicts and Gaps in the Context of Labor Legislation of Ukraine. *Indian Journal of Labour Economics*, 2023, vol. 66, n. 2, pp. 583-597.

<sup>7</sup> The Impact of Globalization on Human Resource Management. (n.d.). Retrieved from <https://www.skquad.io/blog/the-impact-of-globalization-on-human-resource-management>

introduction of flexible working hours in a globalised environment. In this regard, it is important to consider global trends and patterns of implementation of flexible working hours at the international level, taking into account international standards.

For the purposes of our study, it is worth analysing in more detail the division of labour relations into standard and non-standard ones. Standard labour relations are understood as permanent and full-time employment in a relationship based on subordination and authority. Non-standard relations are mainly partial targeted employment, temporary employment or separately established temporary employment carried out by employees on the basis of labour contracts that are clearly defined at the legislative level<sup>8</sup>.

Non-standard labour relations are increasingly preferred by employees<sup>9</sup> For employees, this is a great opportunity to plan their day, their income and activities related to atypical employment. These employee preferences have led employers to offer comfortable and flexible work schedules with unlimited time for a particular task, but with all deadlines taken into account. In general, such schedules depart from the traditional 8 or 9 a.m. arrival and 5 or 6 p.m. leaving on weekdays with two days off<sup>10</sup>. There was a big nuance to the schedules defined in the previous statement: employees were obliged to work in a certain space and for a fixed time, regardless of the direct need for it and their life and family circumstances. These changing preferences of employees have led to the emergence of new forms of work known as flexible working arrangements or non-fixed working hours<sup>11</sup>.

Thus, non-fixed working hours or flexible working arrangements are a certain condition that provides employees with a direct opportunity to gain

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<sup>8</sup> OPEYEMI, O., MALOMA, A., EBE, I., ODUNAYO, S., MAXWELL, O., HEZEKIAH, F. A review of flexible work arrangements initiatives in the nigerian telecommunication industry. *International Journal of Civil Engineering and Technology*, 2019, vol. 10, n. 3, pp 934–950. Retrieved from <http://www.iaeme.com/IJCIET/issues.asp?JType=IJCIET&VType=10&IType=3>

<sup>9</sup> Research by the lawyers of "Labor Initiatives" on the regulation of remote work in Ukraine. 2023. Retrieved from <https://trudovi.org.ua/news/doslidzhennia-iurystiv-trudovykh-initsiatyv-pro-rehuliuвання-dystantsiynoi-roboty-v-ukraini/>

<sup>10</sup> FEDORENKO, O., DOTSENKO, V., PETRUK, O., BEDAN, V., VIKHTIUK, A., KUDERMINA, O., and IZBASH, S. Research of the Motivational Component of Professional Activity of Employees of the Security and Defense Sector. *International Journal of Criminology and Sociology*, 2021, vol. 10, pp. 620-629.

<sup>11</sup> BLOOM, N., LIANG, J., ROBERTS, J., and YING, J. Does working from home work? Evidence from a Chinese experiment. *Quarterly Journal of Economics*, 2014, vol. 130, n. 1, pp. 165–218.

control over their work process, which is manifested in the direct planning of the working day and the number of hours worked<sup>12</sup>.

In their work, Iheriohanma and Austin-Egole<sup>13</sup> confirm that due to rapid technological advances, workers have the choice to decide where, when, and how they want to work. According to Iheriohanma and Austin-Egole<sup>14</sup>, workplace flexibility exists only when the employer itself supports giving employees full or partial choice over their working hours or location. After all, we shouldn't forget about aligning the goals of the company, i.e. the employer itself, with the goals of employees. It's all interconnected and requires constant dialogue. According to Austin-Egole<sup>15</sup>, non-fixed working hours and schedule flexibility are a choice that entails the employee's right to depart from the traditionally established system of labour relations in the allocation of time to perform work processes.

In general, it is important to note that the concept of non-fixed time includes several aspects:

- Flexible working hours - this means allowing full-time workers to choose when to start and finish work, as long as they are at the workplace during the main working hours (in the aspect of our study, non-fixed working hours are considered inextricably linked to flexible working hours)<sup>16</sup>;

- Reduced working week - when employees work less than 5 days a week, but on these days the number of working hours is increased to meet the tasks and goals of the company<sup>17</sup>;

- Part-time work, seasonal schedules - is quite relevant for certain types of professions whose employees are involved in work at the appropriate time of

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<sup>12</sup> FELSTEAD, A., and HENSEKE, G. Assessing the growth of remote working and its consequences for effort, well-being and work-life balance. *New Technology, Work and Employment*, 2017, vol. 32, n. 3, pp. 1468-005X.

<sup>13</sup> AUSTIN-EGOLE, I.S., and IHERIOHANMA, E.B.J. Outsourcing as a Leveraging Strategy for Organizational Productivity in Covid-19 Era. *European Journal of Business and Management*, 2021, vol 13, n. 6, pp. 133-139.

<sup>14</sup> AUSTIN-EGOLE, I.S. The exigencies of work-life balance for improved productivity in the health sector in Nigeria. *African J. Soc. Issues*, 2019, vol. 2, n. 1, pp. 25 – 36.

<sup>15</sup> Ibid.

<sup>16</sup> GROEN, A., TRIEST, P., COERS M., and WTENWEERDE N. Managing flexible work arrangements: Teleworking and output controls. *European Management Journal*, 2018, vol. 30, n. 1, pp. 1- 9.

<sup>17</sup> International Labour Organization ILO. 2020. World employment and social outlook – Trends 2020.



the year. For example, a tax accountant usually works more hours during the busy tax season before the new year than in the summer months.

- The availability of breaks during the working day is relevant for the category of employees who work on an hourly basis and may work overtime, including determining when and who will take breaks and for how long. However, it is important for managers to set expectations and determine how scheduling needs are met to ensure that the same employees are not always working at the least desirable times.

Undoubtedly, non-fixed working hours contribute to the harmonisation of labour relations between employees and employers, thereby ensuring that the company's goals and the interests of both employees and employers are met. However, in the course of establishing such a system of non-traditional labour, both the former and the latter face a number of challenges on the one hand and advantages on the other. At the same time, both parties take into account the norms of the current legislation governing labour relations and non-fixed working hours. There is no doubt that international law has an impact on national legislative processes. So do globalisation processes, which are already transforming the traditional labour market into something completely new<sup>18</sup>. The purpose of this study is to identify the benefits of non-fixed working hours and to analyse the challenges faced by participants in labour relations when establishing flexible working hours in the context of globalisation. It is important to study global patterns and trends in the introduction of flexible working hours at the international level, taking into account international regulations. It is also advisable to assess the impact of international recommendations on the formation of national labour legislation in the framework of non-fixed working hours.

### **Methodological Framework**

In the course of the study, the author used a number of methods of scientific knowledge, both general and special. These include the following: the

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<sup>18</sup> LIMAJ, E., YAROSHENKO, O.M., MELNYCHUK, N.O., MOSKALENKO, O.V., and CHUNG, J.-K. The trauma of war: implications for future generations in Ukraine (comparison with the Eastern European countries that were at war at the end of the 20th century). *International Journal of Environmental Studies*. 2023.

method of systematic analysis, synthesis, formal legal method, dialectical method, study of regulatory and legal documents, etc.

The leading method of this research is the method of systematic data analysis. It was used to process and study a number of different sources of information on the peculiarities of legal regulation of labour relations in terms of non-fixed working hours, and the possibilities of providing a choice of working hours by national legislation. As a result of the systematic analysis, certain provisions and conclusions were formed regarding the benefits that both employees and employers receive in the course of introducing flexible working hours.

To achieve this goal, the synthesis method was also used. Its use became the basis for the formation of a unified vision of the impact of international trends in working time flexibility on national legislation. Moreover, comprehensive information was provided on legislative changes in Ukraine in the aspect of non-fixed working time, which is reflected in the employment contract.

A formal legal method was used to define a number of concepts, such as "non-fixed working hours", "flexible working arrangements", etc.

This study was conducted using the dialectical method of scientific knowledge. It was used firstly to identify and study the problematic issues of introducing flexible working arrangements and establishing non-fixed working hours. The dialectical method was used to reveal the content of the challenges faced by all participants in labour relations who agreed to introduce non-traditional working hours. Moreover, this method, combined with the method of system analysis, revealed the impact of globalisation on labour relations.

The method of studying regulatory and legal documents contributed to the generalisation of information on the legal peculiarities of regulating the issue of establishing flexible working arrangements and defining non-fixed working hours.

The empirical basis of the study is formed by the international legal acts, EU legal documents and national legal acts of Ukraine taken for analysis.

## **1. Results and Discussion**

*Challenges and benefits of flexible working hours in the context of globalisation*



Recent decades have seen rapid changes in various spheres of society. Starting from the economic sphere and ending with labour relations. Significant technological advances, globalisation, changes in labour organisation and business restructuring, increasing diversity of the workforce and the emergence of individualised lifestyles and attitudes to careers have all contributed to the emergence of a wide variety of working time models<sup>19</sup>.

The peculiarity of non-fixed working hours is the ability of both the employer and the employee, or both of them together, to influence the distribution of working hours or to change the work schedule completely. It is appropriate to consider non-fixed working hours through the prism of the employee's and employer's capabilities separately, as the favourable forms of flexibility for both of them differ. Employer-friendly forms of working time flexibility are those that allow organisations to align human capital with the time demands of the business, while "employee-friendly" forms of working time flexibility are those that "give employees the freedom to adapt their working hours and schedule to meet their personal and family needs<sup>20</sup>. It is the correct organisation of working time, taking into account all the needs of both the employer and the employee, that can ensure a quality work-life balance for the employee and regulate labour costs for the employer. However, it remains important to understand that non-fixed working hours can have both positive consequences and pose a number of challenges to the parties to labour relations. Therefore, it is advisable to conduct a detailed analysis of the above indicators in the framework of our study.

The main advantages of establishing non-fixed working hours for employers are the following:

- Increased productivity is one of the benefits of flexible working hours. A striking example of it concerns planning the birth of a child. Working at home after the childbirth (the period of time may vary depending on the legislation of the country and the employer's policy) helps reduce staff turnover. Regardless of their gender, parents can adapt their work schedule to their child's body clock

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<sup>19</sup> YAROSHENKO, O., PYZHOV, O.M., ARSENTIEVA, O.S., HARASHCHUK, V.M., and INSHYN, M.I. Alternative resolution of public law disputes in administrative proceedings of European Union member states. *Relações Internacionais no Mundo Atual*, 2021, vol. 4, n. 33, pp. 94–128.

<sup>20</sup> KAMOURI, A., and LISTER, K. 2020. Global work-from-home experience survey. *Iometrics and Global Workplace Analytic*.

and thus participate in its development and growth. Thus, their productivity increases, resulting in the improved performance for the company. Therefore, non-fixed working hours have a positive impact on productivity compared to those employees who are forced to tear themselves apart between work and family and thus remain dissatisfied with their standard of living. Moreover, this benefits the employer on a large scale, as increased productivity and incentives will help achieve the goals and objectives set for the employee<sup>21</sup>. We don't believe that this working model damages women's careers. With the right self-time management and clear life goals, flexible working hours allows women to be productive in all areas of life, not just in the workplace.

- the fact that mothers who are able to work from home after the birth of a child have a positive impact on reducing staff turnover. It works like this: the mother has confidence in the future, because she is working and receiving a salary. The desired balance is maintained, and therefore such a mother is satisfied with this state of affairs. Moreover, their moral condition is normal.

- Increasing employee loyalty - the results of introducing flexible working will only be achieved when a certain kind of partnership between employer and employees is achieved. Employee loyalty can be built if the employer provides employees with the opportunity to choose flexible working. They develop a sense of control over their workspace, as they can determine when to start working, when to finish, when to take a break. This allows them to enjoy the work process<sup>22</sup>.

- Wider employment opportunities are another benefits both for employers and employees. Flexible working hours facilitates the search for highly qualified personnel and gives advantages in the market.

- The possibility of forming non-traditional work schedules has facilitated access to many areas of work for women (employee), regardless of their marital status, presence or absence of children. Even taking into account the example given in the first paragraph.

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<sup>21</sup> KLINDZIC, M. and MARIĆ, M. Flexible work arrangements and organizational performance - the difference between employee and employer-driven practices. *Journal for General Social Issues*, 2019, vol. 28, n. 1, pp. 89-108.

<sup>22</sup> KATTENBACH, R., DEMEROUTI, E., and NACHREINER, F. Flexible working times: Effects on employees' exhaustion, work-non-work conflict and job performance. *Career Development International*, 2010, vol 15, n. 3, pp. 279–295.

- Reducing absenteeism and slowing down staff turnover - flexible working hours are a very tempting offer for many employees. Especially when it is accompanied by high industry salaries, which reduces absenteeism and staff turnover. By offering this to employees, employers have more opportunities to attract the best specialists who want to achieve new career goals without sacrificing their personal lives, reduces staff turnover and the company's recruitment costs.

- Meeting customer needs - flexible working arrangements are a good way to meet the challenges of globalisation by ensuring business continuity with a wide customer reach<sup>23</sup>.

- Saving costs required for renting premises and paying utility bills. Since when fewer employees are physically present in the office, it is possible to reduce office space or offer shared workspaces, saving on rent and other overheads.

As for the benefits of non-fixed working hours for employees, the following are worth noting:

- Increased energy and creativity - flexible working arrangements can help to increase creativity, search for new ideas and inspiration. Energy, in turn, is defined as the ability to work, and organisational energy is individual and psychological in nature. Taken together, it helps you go beyond the tasks at hand, find new and unique solutions, and increase personal potential<sup>24</sup>.

- Absence of conflict between family and work - achieving a kind of balance between personal life, family and work is possible with flexible working hours. Traditional working conditions generally have a negative impact on an employee's relationship with his or her family and personal life. This is the source of anger, dissatisfaction and passivity in achieving the company's goals. Employees who participate in job sharing, work part-time to maintain a balance between home and work, and achieve greater self-realisation and satisfaction. It is also important to add that the rapid pace of technological innovation is putting constant pressure on the management of organisations in European countries to separate the time an employee spends on work from the task itself, and how

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<sup>23</sup> KOSSEK, E. E., and MICHEL, J. Flexible work scheduling. In S. Zedeck (Ed.), *Handbook of industrial-organizational Psychology*, 2011, vol. 1, pp. 535-572. Washington, DC: American Psychological Association.

<sup>24</sup> *Ibid.*

efficiently and effectively it is performed. This leads to relevant results, which are then taken into account at the legislative level<sup>25</sup>.

- The increase in the number of women in management positions is primarily due to the possibility of employment for mothers and employees returning from maternity leave. This opens the way for them to show their best qualities and move up the career ladder<sup>26</sup>.

- Reduced business trips and shorter time spent commuting, as information technology enables communication at a time convenient for all parties and without the need to travel. Employees have the freedom to customise their work schedule according to their preferences and peak productivity hours.

- Increased motivation - reaching a compromise with the employer on setting up non-fixed working hours gives the employee a sense of control over their life. He or she can determine the hours when he or she is most productive, or vice versa. They can adapt other plans to work tasks. In such conditions, motivation increases and a desire for new achievements appears<sup>27</sup>.

- With shorter commutes and a more flexible work environment, employees may experience improved mental health, reduced burnout, and better overall well-being. This can have a positive impact on job satisfaction and long-term commitment to the organisation.

- Open up opportunities for inclusivity - flexible working hours are suitable for people with different physical needs, contributing to a more inclusive workplace<sup>28</sup>.

However, along with the existing advantages, there are a number of challenges facing all parties to labour relations. This is manifested by employers in the following:

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<sup>25</sup> COOKER, G. The benefits of flexible work arrangements: A future of work report. A report prepared by the future work institute. 2012.

<sup>26</sup> KOSSEK, E. E., HAMMER, L. B., THOMPSON, R. J., and BURKE, L. B. Leveraging workplace flexibility for engagement and productivity. SHRM Society for Human Resource Management. 2014.

<sup>27</sup> DEREVYANKO, B., NIKOLENKO, L., TURKOT, O., IVANYUTA, N., and BUTYRSKA, I. Mediation as an alternative form of protection of shareholders' rights in property relations. International Journal of Public Law and Policy, 2022, vol. 8, no. 3-4. pp. 227-241. DOI: 10.1504/IJPLAP.2022.10045670.

<sup>28</sup> IVASHCHENKO, A., POLISHCHUK, Y., and BRITCHENKO, I. Implementation of ICO European best practices by SMEs. Economic Annals-XXI, 2018, vol. 169, no. 1-2, pp. 67-71. doi:10.21003/ea.V169-13.

- Fear of change - on the one hand, employers who keep up with the times and positively accept the innovations of the present. They are able to understand the benefits of flexible working for themselves and their employees. They take a long-term view of such changes and think big. When employers accept only the traditional model of work, they are not able to fully understand all the benefits of flexible working. They can only think about the difficulties, the challenges, the costs of such a transition, and the provision of the necessary facilities for employees.

- Lack of trust in employees - this may be due to negative previous experiences or due to the personality of the head. Many employers do not believe that employees will perform their tasks well, that there will be a lack of discipline and reduced productivity. Employers fear that no one will work without real control<sup>29</sup>.

- Difficulties in the financial sphere - these financial difficulties are generally the most common problem when switching to non-traditional forms of work, as very often an employee needs to be provided with at least a computer for remote work, etc. However, potential financial difficulties generally arise because the benefits of flexible working hours are not taken into account in the first place.

- Loss of control over employees by employers, which manifests itself through the inability to track the performance of tasks and employee engagement in real time here and now<sup>30</sup>.

On the part of employees, the challenges are manifested in the following:

- Lack of adequate support and guidance, without which adjusting to the new environment can pose a number of challenges for some employees. As a result, it can lead to isolation and reduced visibility for employees, which in the long run affects productivity and career development<sup>31</sup>.

- Personal beliefs - for many, the image of the leader and physical interaction and communication with the leader is a necessary precondition for

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<sup>29</sup> POLISHCHUK, Y., IVASHCHENKO, A., BRITCHENKO, I., MACHASHCHIK, P., and SHKARLET, S. European smart specialization for Ukrainian regional development: Path from creation to implementation. *Problems and Perspectives in Management*, 2019, vol. 17, no. 2, pp. 376-391. doi:10.21511/ppm.17(2).2019.29.

<sup>30</sup> KUZHELIEV, M., and BRITCHENKO, I. Theoretical and methodological aspects of formation of corporate control system in Ukraine. *Ikonomicheski Izsledvania*, 2016, vol. 25, no. 2, pp. 3-28.

<sup>31</sup> SARDAK, S., BRITCHENKO, I., VAZOV, R., and KRUPSKYI, O. P. Life cycle: Formation, structure, management. *Ikonomicheski Izsledvania*, 2021, vol. 30, no. 6, pp. 126-142.

positive changes at work and achieving the necessary results. This is because managers are able to define the tasks and contributions of employees and provide feedback more quickly. Moreover, it also has an impact on the emergence of procrastination or vice versa workaholism<sup>32</sup>.

#### *International trends in the sphere of flexible working hours*

In the European area and internationally, non-fixed working hours are a way of achieving goals. As companies strive to balance the needs of their employees with the needs of the market, flexible working hours are becoming the key to increasing productivity, achieving desired results and improving the quality of work and life of employees.

The key international legal act that regulates the organization of working time and rest time is Directive 2003/88 (updated in 2017) on some aspects of the organization of working time (hereinafter - the Directive). This Directive establishes minimum standards for the working time organisation. In particular, it sets the maximum duration of working time, the minimum duration of daily and weekly rest. In addition, it enshrines the need to have breaks during the working day, determines the duration of the minimum annual paid leave, and regulates some issues of organizing night and shift work.

Therefore, it is not surprising that one of the objectives of the European Employment Strategy is to reconcile the needs of organisations with those of employees by promoting greater internal flexibility and stimulating dialogue between all actors. It now constitutes part of the Europe 2020 growth strategy and it is implemented through the European semester, an annual process promoting close policy coordination among EU Member States and EU Institutions<sup>33</sup>.

In 1993, the first EU Working Time Directive was adopted. This Directive outlined the first major step towards regulating the length of the working week. The purpose of this Directive was to define the requirements for ensuring the health and safety of people working in Europe.

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<sup>32</sup> MELNYK, T., and VARIBRUSOVA, A. Variable indicators affecting the country's brand strategy effectiveness and competitiveness in the world. *Management Science Letters*, 2019, vol. 9, no. 10, pp. 1685-1700.

<sup>33</sup> YAROSHENKO, O.M., KUTOMANOV, D.Ye., MARYNIV, N.A., and DUDENKO, T.V. Features of corporate liability for violation of competition law. *International Journal of Criminology and Sociology*, 2020, vol. 9, pp. 1517–1525.



Already in 2003, a new Directive 2003/88/EC was adopted, which actually replaced the previous one<sup>34</sup>. As for the main provisions, they mainly set the length of the working week, which was a maximum of 48 hours, including overtime. They also established rules that defined the conditions for daily and weekly rest, holidays, rest breaks, etc. In recent years, the European Commission has been reviewing this Directive through a multi-stage consultation with the social partners at the EU level and a detailed impact assessment.

Some clauses of the Directive have been subject to extensive discussion, in particular the opt-out clause, which allows Member States not to apply the 48-hour working week if the employee voluntarily agrees to do so. Other items discussed included compensatory rest, work-life balance, and the reference period. It will take time to reach a full agreement on these issues, as they are quite complex in nature and require in-depth analysis. Many EU documents point to the possibility of finding mutually beneficial solutions, for example, the 1997 European Commission Green Paper on Partnerships for a New Work Organisation and the 2007 Commission Communication Towards a Common Framework for Flexibility (Organisation of working time: Implications for productivity and working conditions. Overview Report, n.d.).

The contribution of the International Labour Organisation is also worth exploring. Its activities are fully aligned with those of the EU and follow the belief in supporting productive working hours and work-life balance. In 1999, the ILO defined the concept of "decent work" as "expanding opportunities for women and men to obtain decent and productive work in conditions of freedom, equality, security and human dignity". It also identified the following dimensions of adequate working time, with a focus on health and safety, promoting gender equality, taking into account family interests, increasing enterprise productivity, and delegating to employees the right to influence their working time<sup>35</sup>.

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<sup>34</sup> Directive 2003/88/EC of 04.11.2003 on certain aspects of the organisation of working time 2003. Retrieved from [https://online.budstandart.com/ua/catalog/doc-page.html?id\\_doc=77782](https://online.budstandart.com/ua/catalog/doc-page.html?id_doc=77782)

<sup>35</sup> ILO Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022. Retrieved from [https://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62\\_LIST\\_ENTRIE\\_ID:2453911:NO](https://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453911:NO)

Based on these regulations, researchers<sup>3637</sup> clustered the variables and built a typology of working time flexibility with six types, such as:

- High employee-oriented flexibility - employers combine timekeeping and overtime with flexible working, part-time work and long-term leave;

- High company-oriented flexibility - employers in this case combine working outside normal working hours, part-time work, overtime and flexible contracts;

- Medium level of life-cycle-oriented flexibility - generally, this combines long-term leave and pension programmes;

- Daily intermediate flexibility - employers in this case combine non-fixed working hours with part-time work, time tracking and activities outside normal working hours<sup>38</sup>;

- Overtime work only;

- Low flexibility - such employers do not have any flexibility measures.

*Assessment of the impact of international recommendations on the development of national labour legislation in terms of non-fixed working hours*

Labour relations are highly regulated at the level of the European Union and in the international arena. Therefore, it is not surprising that the impact of the legal regulation of non-fixed working hours is being monitored at the level of national law in Ukraine. Despite the full-scale invasion, the legislation continues to improve and adapt to changes associated with new technologies and globalisation.

One of the most recent innovations was the adoption by the Verkhovna Rada of Ukraine on 18 July 2022 of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on the Regulation of Labour Relations with

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<sup>36</sup> KYSELOVA O.I. Features of consideration by courts of labor disputes on the reinstatement of an employee at work. *Legal horizons*, 2020, vol. 23, no. 36, pp. 27-34. <http://www.doi.org/10.21272/legalhorizons.2020.i23.p27>

<sup>37</sup> KUNENKO, I., POLIARUSH-SAFRONENKO, S., and LAPKA, O. The concept and significance of constitutional and organic laws in legal science and legislation of different countries. *Journal of International Legal Communication*, 2022, vol. 4, no. 1, pp. 65-74. <https://doi.org/10.32612/uw.27201643.2022.1.pp.65-74>

<sup>38</sup> RADÓ, M., NAGY, B., and KIRÁLY, G. Work-to-family spillover: Gender differences in Hungary demográfia. *English Edition*, 2015, vol. 58, n. 5, pp. 39–64.

Non-fixed Working Hours"<sup>39</sup>. This Law actually regulated the issue of non-traditional labour. Moreover, the Labour Code of Ukraine separately distinguished the concept of an employment contract with non-fixed working hours.

An employment agreement with non-fixed working hours means a type of employment agreement that does not contain a provision on the specific time allocated for the performance of a particular job. The employee's main duty is to perform the work in question, and the employee performs the work when the employer provides it. There is also no guarantee on the part of the employer that this type of work will be provided on a permanent basis. However, despite this, labour remuneration must be paid on time and in a certain amount<sup>40</sup>.

In some EU countries, this form of work is called on-call work or a contract without working hours. It is a common form of employment in European countries. Moreover, features of part-time work are disclosed in the ILO Convention on Part-Time Work of 1994<sup>41</sup>.

The ILO and the EU have not adopted special acts that would regulate the issues of on-call work. However, some provisions concerning this form of non-standard employment can be observed at the EU level. Article 11 of Directive 2019/1152<sup>42</sup> on transparent and predictable working conditions in the European Union states that "where Member States allow for the use of work contracts on demand or similar employment contracts, they shall implement one or more of the following measures to prevent the abuse of such contracts: a) restrictions on the use and validity of work contracts on demand or similar employment contracts; b) a refuted presumption of the existence of labor relations with a minimum number of paid hours based on the average number of hours for a given period; c) other equivalent measures that ensure effective prevention of abuse".

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<sup>39</sup> On Amendments to Certain Legislative Acts of Ukraine on the Regulation of Labour Relations with Non-fixed Working Hours. 2022. Law of Ukraine, No. 2421-IX. Retrieved from <https://ips.ligazakon.net/document/T222421?an=64>

<sup>40</sup> The Labor Code of Ukraine. 1971. Code of Ukraine, № 322-VIII. Retrieved from <https://zakon.rada.gov.ua/laws/show/322-08?lang=en#Text>

<sup>41</sup> Convention on part-time work No 175. Retrieved from [https://zakon.rada.gov.ua/laws/show/993\\_040#Text](https://zakon.rada.gov.ua/laws/show/993_040#Text)

<sup>42</sup> Directive 2019/1152 of 20.06.2019 on transparent and predictable working conditions in the European Union. Retrieved from: [https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/genericdocument/wcms\\_748901.pdf](https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/genericdocument/wcms_748901.pdf)

This form of employment has gained importance in Ireland, Italy, the Netherlands, Sweden and the UK in recent decades. On-call work as a flexible form of employment is regarded as the work of the future since the employee work only in case of necessity. This is the main difference from a typical employment contract which clearly indicates the beginning of labour relations and working time<sup>43</sup>.

This newly adopted law is also called the Law on Freelancers. It details the terms and conditions of the contract defined in the Labour Code of Ukraine and provides for the creation of a sample contract that can be used by the employer in the future.

Under the Law, there is a limit on the number of such employment agreements and they may not exceed 10 per cent of the total number of employment agreements to which the employer is a party. An employer (an individual employer) employing less than 10 employees may enter into no more than one employment agreement with a non-fixed working time. Only one such employment contract is permitted for individual employers. The gap in the legislation in this case is the lack of control over the conclusion of such employment contracts, as the employer does not report to employees and does not provide information on the concluded contracts to the State Labour Service of Ukraine. The gap is the lack of specification of the legal fate of contracts concluded in excess of the permissible percentage.

Established basic requirements for an employment contract with non-fixed working hours:

1. Written form of the employment contract (after the end of martial law).
2. Remuneration for separate involvement of an employee in work outside of the basic time.
3. The minimum notice period and method of notification of the start of the assigned work, which must be sufficient and adequate for the employee to start such work.
4. The method and maximum period of notification by the employee of readiness to start work or refusal to perform it.

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<sup>43</sup> HNIDENKO V. I. Legal regulation of flexible forms of employment. Kharkiv: Yaroslav Mudryi National Law University. 2021.

5. The existence of defined time intervals during which the employee must perform work and be available, the so-called basic hours<sup>44</sup>.

The above is necessary to avoid possible disagreements.

It is important that the employee is not tied to a work schedule and performs work when it is provided. The maximum time an employee can be engaged cannot exceed 40 hours per week or six days in accordance with labour law.

The employer notifies the employee of the job offer, along with all the terms and conditions. All of this is outlined in the employment contract. The legislation does not contain specific requirements as to how the employee should be notified of the commencement of work. Such notification may be made in writing, by means of electronic communications, by signing work performance certificates, etc. There are also no special requirements regarding the specifics of setting deadlines. Such deadlines may be set in weeks, days or hours, depending on the content and specifics of the work performed. It should be noted that such a notice period should be sufficient for the employee to start performing his or her duties in a timely manner<sup>45</sup>.

An employee has the right to refuse to perform work in accordance with the terms of the agreement in the following circumstances:

- If the term of work specified in the contract differs from the actual term announced by the employer;
- If the employer did not notify the employee of the start of work in time<sup>46</sup>. In other cases, the employee may be disciplined for refusing to perform work.

The law establishes a minimum working time of 32 hours per week for employees. If the number of actual hours is less, the employer is obliged to pay the amount corresponding to the calculation for 32 hours. If the work was carried out over a longer period of time, payment is made for the actual time worked.

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<sup>44</sup> Ibid.

<sup>45</sup> Responsible business behaviour in times of war in Ukraine. A contextual study. 2023. Retrieved from [https://www.undp.org/sites/g/files/zskgke326/files/2023-10/undp-ua-zvit\\_vidpovidalna\\_povedinka\\_biznesu\\_v\\_chasy\\_viyny\\_v\\_ukraini\\_ukr.pdf](https://www.undp.org/sites/g/files/zskgke326/files/2023-10/undp-ua-zvit_vidpovidalna_povedinka_biznesu_v_chasy_viyny_v_ukraini_ukr.pdf)

<sup>46</sup> KOZAK, K. Employment contract with non-fixed working hours from "A" to "Z". 2022. Retrieved from [https://buh.ligazakon.net/aktualno/12838\\_trudoviy-dogovr-z-nefksovanim-robochim-chasom-vd-a-do-ya](https://buh.ligazakon.net/aktualno/12838_trudoviy-dogovr-z-nefksovanim-robochim-chasom-vd-a-do-ya)

The law does not impose restrictions on an employee's ability to combine one such employment contract with other employment contracts. In turn, the employer has no right to prevent the employee from engaging in other work and projects on a paid or unpaid basis. Thus, an employment contract with non-fixed working hours is prohibited from stipulating a condition prohibiting an employee from performing work under other employment contracts.

It is important to note that an employment agreement may contain additional grounds for termination that are directly related to the employee's failure to meet the required abilities, behaviour, etc.

## **Conclusion**

Globalisation and the development of information technologies have had and continue to have a significant impact on the development of the labour market, transforming and modifying its traditional form. Thanks to globalisation and the penetration of information technology into the labour market, the workplace is becoming more flexible for employees, and working hours are no longer fixed. In turn, this frees employees from being tied to a workplace, as advanced computer technology has eliminated the need for geographic proximity. Non-standard labour relations are increasingly preferred by employees.

Non-fixed working hours or flexible working arrangements are a certain condition that gives employees a direct opportunity to gain control over their work process, which is manifested in the direct planning of the working day and the number of hours worked.

The very concept of time-fixed work includes several aspects: flexible working arrangements; shortened working week; part-time work; seasonal working hours; and breaks during the working day. The peculiarity of non-fixed working hours is the ability of both the employer and the employee, or both of them together, to influence the distribution of working hours or to change the work schedule completely. It is appropriate to consider non-fixed working time through the prism of the employee's and employer's capabilities separately, since the favourable forms of flexibility for both of them differ.

The main benefits of non-fixed working hours for employers are: increased productivity; increased employee loyalty; wider employment opportunities;



reduced absenteeism and slower staff turnover; customer satisfaction; and savings in rent and utility costs.

As for the benefits of non-fixed working hours for employees, the following are worth noting: increased energy and creativity; no conflict between family and work; more women in leadership positions; reduced business trips and commuting time; increased motivation; improved mental health, reduced burnout and improved overall well-being; and open opportunities for inclusivity.

However, alongside these benefits, there are a number of challenges faced by all parties to labour relations. This is manifested on the part of employers in the following: fear of change, lack of trust in employees, difficulties in the financial sector, and loss of control over subordinates. On the part of employees, the challenges are manifested in the following: lack of proper support and guidance, without which adapting to new conditions may pose a number of problems for some employees; personal beliefs - for many, the image of the manager and physical interaction and communication with the management are a prerequisite for positive changes at work and achieving the necessary results.

In the European area and internationally, non-fixed working hours are a way of achieving goals. As companies strive to balance the needs of their employees with the needs of the market, working time flexibility is becoming the key to increasing productivity, achieving desired results and improving the quality of work and life of employees. In 1993, the first EU Working Time Directive was adopted. The purpose of this Directive was to define the requirements for ensuring the health and safety of people working in Europe.

In 2003, a new Directive 2003/88/EC was adopted. As for the main provisions, they mainly set the length of the working week, which was a maximum of 48 hours, including overtime. It also set out the rules governing daily and weekly rest, holidays, rest breaks, etc. In recent years, this Directive has been under review by the European Commission through a multi-stage consultation with the social partners at EU level and a detailed impact assessment.

The contribution of the International Labour Organisation is also worth exploring. Its activities are fully aligned with those of the EU and follow the belief in supporting productive working time and work-life balance. In 1999, the ILO

defined the concept of "decent work" as "expanding opportunities for women and men to obtain decent and productive work in conditions of freedom, equality, security and human dignity". It also defined the dimensions of adequate working time, with a focus on health and safety, promoting gender equality, taking into account family interests, increasing enterprise productivity, and delegating to employees the right to influence their working time.

The impact of the legal regulation of non-fixed working hours is monitored at the level of national law in Ukraine. Despite the full-scale intrusion, the legislation continues to improve and adapt to changes related to new technologies and globalisation.

One of the most recent innovations was the adoption by the Verkhovna Rada of Ukraine on 18 July 2022 of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on the Regulation of Labour Relations with Flexible Working Hours". This Law actually regulated the issue of non-traditional labour. Moreover, the Labour Code of Ukraine separately defined the concept of an employment contract with non-fixed working hours.

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**Universidade Portucalense Cooperativa de Ensino Superior, CRL**

Rua Dr. António Bernardino de Almeida, 541 - 4200-072 Porto

Email: [upt@upt.pt](mailto:upt@upt.pt)