

Nyuanes of Legal Regulation of Part-Time Work

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Annotation: This article focuses on the study of such issues related to the study of the need to preserve the institution of part-time work or the appropriateness of its presence in labor law; with consideration of the advisability of the presence of an appendix to the regulation on the procedure for part-time work and combination of professions and positions, providing for a list of jobs that are not considered part-time work; with an analysis of some problems of labor legislation based on these legal categories; with the possibility of citizens to work simultaneously part-time and in the order of combining, etc.

The fast pace of life often forces especially restless citizens to work in more than one place. And for the performance of some jobs (for example, legal adviser) it is more profitable for an organization to attract workers not on a permanent basis.

Because, for a certain category of workers, most likely, not such a large amount of work will be assigned. In this case, we are talking about the institution of part-time work.

Coverage of the nuances of legal regulation of part-time work always arouses great interest in readers, since the topic is complex, and the study of legislative acts on this issue sometimes raises more questions than answers.

Key words: part-time work, restrictions on part-time work, prohibitions on part-time work, part-time work, internal part-time work, external part-time work, part-time work of specialists of government bodies.

Introduction

For many years, part-time work has remained one of the most relevant types of employment. Initially, the need for part-time work was quite significant and the state introduced this type of employment to fill vacancies where there was an acute shortage of experienced and qualified workers. However, today the issue of abandoning part-time work is acute. The main reason is the problem of employment and the risk of increasing unemployment. Consideration of this issue seems a little hasty given what a complex multifaceted institution part-time work is.

Despite the specific position that part-time work represents, it also has fundamental features, as well as problematic issues that require more complete and specific legal regulation.

With the adoption of the new Labor Code, labor legislation has significantly advanced in improving the legal regulation of labor of persons working part-time [1. P. 198]. The new Labor Code has become a document of direct action. It sets a certain legal framework and regulates the entire complex of relations between the employee and the employer, and also provides new tools for this [2. P.155]. Since the previous Labor Code, in comparison with the current one, practically did not contain a single targeted norm aimed at regulating the labor activity of part-time workers.

The provisions of the current regulations regarding part-time work are more democratic. However, despite this, we believe that a number of provisions of the current legislation regarding part-time work need further improvement.

Materials and methods. In the study of this area, the author analyzed the labor legislation of the CIS countries regarding the role of the part-time work institution, the procedure for regulating the duration of working hours, the establishment of restrictions and prohibitions on part-time work

The methodological basis of the study was initially made up of general scientific methods of cognition, such as dialectical, systemic-structural and the method of analysis and synthesis.

Results of the study. The dynamic growth of the market economy, the creation of increasingly new types of employment, the introduction of modern technologies in the digitalization of labor, the continuous growth in the number of small enterprises have become the basis for the comprehensive development of labor legislation. Taking into account the imminent accession of Uzbekistan to the World Trade Organization (hereinafter referred to as the WTO), it seems reasonable to assume a natural increase in competition between domestic and foreign manufacturers [5, C.1]. In this procedure, the most important policy of any organization can be the search, training and hiring of competitive personnel. When implementing this policy in order to meet modern realities, it is assumed that it is inevitable to attract highly qualified personnel on a temporary basis [6. C.84]. In this case, as practice shows, part-time work in many cases is still an indispensable form of organizing labor relations. Since the need for the services of part-time workers is most felt by representatives of small businesses. Of course, large companies can formalize the hiring of such personnel under a civil law contract, but they will need to comply with the requirements of Article 11 of the Labor Code, which prohibits the conclusion of civil law contracts that actually regulate individual labor relations between an employee and an employer [7, p. 67]. As we have previously noted, many scientists are skeptical about the institution of part-time work. In their work, T.L. Andrianovskaya and S.S. Baeva rightly noted that part-time work has remained one of the most discussed topics for many years. According to the authors, scientists have assessed the institution of part-time work in completely different ways. In this regard, the scientific world was divided into two camps. Those who had a negative attitude towards the institution of part-time work believe that the state has enough qualified personnel to carry out this or that activity. In addition, they believed that it is the institution of part-time work that slows down the effective fight against unemployment. Another argument in favor of this group of scientists is the fact that in most developed European countries there is no such thing as part-time work [8, p.121].

But the other half of scientists believe that part-time work is very beneficial for both the employee and the employer. According to V.A. Glozman, part-time work provides employees with the opportunity to not only have an additional source of income, but also to improve their professional qualities and acquire new skills in becoming a highly qualified specialist in a certain field. And employers can temporarily hire already qualified workers until they find a worthy candidate for replacement at the labor exchange [9, p.186].

The author believes that the institution of part-time work is currently one of the most effective ways to combat unemployment [10, p.403]. This statement is explained by the fact that; Firstly, the existence of the institution of part-time work in labor legislation restrains employees from working several positions at once on a full-time basis, which, in fact, leads to a violation of the requirements of Article 206 of the Labor Code and deprives newly-minted personnel of a job;

Secondly, by allowing citizens to work part-time, the state guarantees them the ability to independently and freely dispose of their labor;

Thirdly, although the state allows citizens to work several jobs, it sets certain restrictions, in particular, in the duration of part-time work or in the admissibility of certain persons or positions to work part-time.

The next issue under consideration is the list of jobs that are not considered part-time work. As is known, PCM No. 297 contains an appendix listing jobs that are not part-time work. Such types of work include [11, p. 2]:

1. Carrying out scientific or teaching activities, if such activities are not work performed at the main place of work.
2. Creation of works of science, literature and art, payment for which is made in the form of royalties.
3. Performance by an employee, in addition to the main work, of other work, without occupying a full-time position in the same organization.
4. Literary work, including work on editing, translating and reviewing individual works, payment for which is made in the form of royalties.
5. Technical, medical, accounting, legal and other expertise (consultation) with a one-time payment for work.
6. Work of teachers and other pedagogical workers of comprehensive schools, specialized educational and training institutions, extracurricular educational institutions, etc.
7. Performance of duties of medical consultants in healthcare institutions in the amount of no more than 24 hours per month with a one-time or hourly payment for work.
8. Management of senior research fellows-applicants in research institutions and higher education institutions, carried out by research fellows who are not on the staff of these institutions.
9. Work performed by an employee as a manager in elected positions of central and territorial bodies of political parties, trade unions and public associations, chairman or member of the Supervisory Board or the Board of Directors (managers), managing committee under Production Sharing Agreements, trustee in an organization.
10. Work that is performed on a voluntary basis.

The first point of this list allows employees to carry out scientific or teaching activities, provided that such activities are not work performed primarily at their place of work [12, p. 21]. Let's assume that a law enforcement officer has decided to get a job at a higher education institution as a teacher. The problematic issue in this case is the issue of this employee's registration. Should the employer conclude an employment contract with him, or is it necessary to conclude a civil law contract or hire this employee as a "hourly worker"?! But in practice, a regular employment contract is concluded with these employees, but not on the terms of part-time work. However, this misleads people, since the employee has two employment contracts, which, in fact, resembles the features of part-time work. It is difficult to follow the logical explanation in this wording. Therefore, it seems appropriate to make an addition to the labor legislation in terms of the registration of these employees of the following content: "An employment contract with persons engaged in scientific or teaching activities, if such activity is not work performed at the main place of work, is drawn up on the basis of part-time work."

The works specified in paragraphs 2, 3, 4 and 5 are regulated more by civil law than by labor law. Since these works are of a one-time nature. And the works listed in paragraphs 6 through 9 are most often performed in practice by combining or imposing additional obligations on the employee. Therefore, the presence of these works in this list, in the author's opinion, is considered inappropriate. The only work that really should not be recognized as part-time work is work that is performed on a voluntary basis. Here the author fully agrees with the legislation.

Analysis of the research results

One of the main features of part-time work is its duration. As is known, Article 437 of the Labor Code determines that the duration of part-time working hours cannot exceed half of the standard working hours established for this category of employees when working part-time [13, p. 372]. This provision, in the author's opinion, has an unequal effect on employees. For example, if an employee already has a full-time main job, then he can work part-time on a half-time basis. In this situation, this employee is in a comfortable position, rather than the employee who was registered both at the main place and at the part-time place on a half-time basis. And as we can see, there is a difference in the total duration of work between these persons. Consequently, the question arises about the fairness of establishing such an order of the duration of work on a part-time basis. Perhaps the content of this article should be adjusted and the legal possibilities of the parties should be equalized?! For these purposes, the author proposes several promising methods:

➤ to state part one of Art. 437 of the Labor Code as follows:

"The total duration of working hours at the main place and at the part-time place cannot exceed one and a half rates or twelve hours" or;

➤ to study the experience of Ukraine in regulating the labor of persons working part-time, according to which the limited duration of working hours on a part-time basis applies only to employees of state enterprises, institutions and organizations.

In addition, the author suggests paying attention to an exceptional profession - medical personnel of healthcare organizations, whose duration of part-time work is not limited by labor legislation. The author does not in any way diminish the significance and importance of the work of people in this profession, however, in fairness, another category of workers should be noted. In particular, teachers, specialists in training, retraining and advanced training of managers and specialists, etc. The author believes that it is necessary to develop a specific list of professions and specialists who are allowed to work part-time on a full-time basis.

Considering the topic of restrictions, we will touch on the case when the employer has the right to refuse the employee part-time work. Of course, paragraph 6 of the Regulation on the procedure for part-time work and combining professions and positions provides for the right of the employee to get a part-time job without the consent of the employer and the trade union committee. However, Art. 433 of the Labor Code states that the employer, in agreement with the trade union committee, may establish restrictions on part-time work in relation to certain professions, specialties and positions. Consequently, the employer may provide in its local act for a case when the employee is prohibited or a condition for mandatory approval of the employee's right to work part-time. For example, when the employee's additional work leads to a conflict of interest or threatens to disclose commercial or official secrets to competitors.

In practice, it is not uncommon for an employment contract to be terminated with part-time workers, after which the future fate of the contract at the second place of work becomes relevant. It is a mistake to think that when the employment contract at the main place of the part-time worker is terminated, the contract at the second place of work will automatically become the main one [14, p. 155]. As is known, when concluding an employment contract, the parties must clarify the type of employment (main job or part-time work). In other words, all the terms and main points of the contract must be agreed upon by the parties. Consequently, there can be no talk of any automatic transformation of a part-time employment contract. The transformation of a part-time employment contract into a main place of work must be carried out in strict accordance with Article 136 of the Labor Code of the Republic of Uzbekistan.

Conclusions.

The conducted research allows us to draw the following conclusions:

- consideration of the issue of refusal from part-time work should be postponed until an alternative, more effective type of employment appears on the market;
- the list of jobs that are not considered part-time work raises various questions among specialists, since most of them are often carried out in practice by concluding either additional agreements to the employment contract or by concluding civil law contracts;
- the procedure for registering an employee carrying out scientific or teaching activities, if such activity is not work performed at the main place of work, raises a number of questions due to the lack of a specific mechanism;
- the duration of part-time work is still controversial among labor law specialists. According to the author, with respect to a certain category of workers, this restriction has signs of inequality;
- restrictions and prohibitions on persons in part-time work were drawn up for classic workers, while omitting athletes, employees of competing organizations, corporate law specialists and managers, etc.;
- the transformation of an employment contract at the place of part-time work into the main one seems to be a somewhat confusing process, which creates some difficulties in their execution.

To summarize the consideration of the legal regulation of part-time work, we will formulate the following proposals aimed at eliminating the existing shortcomings of labor legislation and increasing the effectiveness of legal regulation of part-time work.

- it is necessary to reconsider the issue of the presence in the Regulation Duration of part-time work of a list of jobs that are not considered part-time work;
- the implementation of scientific or teaching activities, if such activity is not work performed at the main place of work, should be formalized as part-time work and excluded from the list completely;

In order to achieve a legal and fair balance, it seems appropriate to set out part one of Article 437 of the Labor Code as follows:

"The total duration of working hours at the main place and at the place of part-time work cannot exceed one and a half rates or twelve hours" or; - study the experience of Ukraine in regulating the work of persons working part-time, according to which limited duration of working hours for part-time work applies only to employees of state enterprises, institutions and organizations [15. P. 69].

- supplement paragraph 4 of the Regulation on the procedure for part-time work and combination of professions and positions with exceptional cases in which the employee must obtain the consent of the employer and the trade union committee to work part-time:
- in case of a possible conflict of interest between organizations;
- in case of a threat of disclosure of a commercial or official secret;
- an athlete, a coach have the right to work part-time for another employer as an athlete or coach only with the permission of the employer at the main place of work.
- The transformation of an employment contract for part-time work into a main place of work must be carried out in strict accordance with Art. 136 of the Labor Code of the Republic of Uzbekistan.

All of the above conclusions and proposals deserve special attention. Further detailed study of each of these issues can assist in bringing the norms of labor legislation into conformity with the establishment

of a kind of legal balance not only between employees and employers, but also between the employees themselves.

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