

AUSTRIA

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FOURTH STUDY COMMISSION

“Flexible employment and other emerging types of labor relations”

Preamble

Flexibility (quantitative or qualitative) has become a major issue in the competitiveness of companies, which have to adapt and even react as quickly as possible to unforeseeable events, conjunctures or economic constraints that are less and less predictable.

In order to do so, employers choose to have either external flexibility, by using interim, fixed-term contracts, subcontracting or even the outsourcing of certain skills (computing, accounting, logistics, calling centers, catering, etc.), or internal flexibility 1) by being flexible on “time”, adjusting working hours or allowing part-time work, 2) by giving “geographical” flexibility to the employees in the workplace (telework, working remotely, even a change of assignment from one workstation to another for the same employer), 3) by expanding the employee's tasks to modify his or her job in the workplace (specialization by training in order to increase the skills of the worker), or even 4) by training the worker to give her or him the possibility to get a new job in the same company.

From the workers' point of view, this flexibility may be perceived by some as a source of precariousness likely to degrade their living conditions, but for others this flexibility can both be associated with a freer management of their working hours when, for example, more flexible hours have been negotiated or chosen and not imposed, which would constitute a way of making work less monotonous or more diversified.

This year, the theme chosen by the 4th Commission at the 59th International Congress of IAJ tend, on one hand, to examine the different modes of “time and geographical” flexibility introduced by each country in its positive law and, on the other hand, to identify other emerging modes of flexibility that would have appeared in order to ensure greater flexibility in the work schedule and the workplace of an employee.

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Questions

[1] Does your country have laws or regulations on work schedules?

Yes. In Austria provisions governing working hours are laid down in the Working Time Act (Arbeitszeitgesetz, AZG) and the Hours of Rest Act (Arbeitsruhegesetz). These regulations also implement the rules of Directive 2003/88/EG of the European Parliament and the Council on certain aspects of working time regulation. There are also provisions in collective agreements for instance concerning the length of working time but also regarding possibilities to have specific allocations of working hours.

[2] If so:

a) What are the general rules applicable to the duration of working hours?

Working hours refer to the time between beginning and end of work, not including rest periods.

The Working Time Act states that the regular daily working time of an employee is eight hours an. The regular working time of an employee per calendar week is 40 hours.

Normal working hours can be extended in case of an unforeseen heavy work load, for preparatory work and to finish urgent work. For this overtime hours the employer has to pay a 50 percent supplement.

The maximum number of working hours must not exceed 10 hours per day an 50 hours per week.

If the number of working hours per day exceeds six hours, work has to be interrupted by a break of at least 30 minutes.

Working hours have to be agreed between employer and employee and can only be altered unilaterally under specific circumstances.

b) Has the legislator considered any general exemptions from these rules?

There are different exemptions, for instance for certain groups of employees or in case of emergencies and extraordinary circumstances.

Work hours can also be extended as part of a collective bargaining agreement if the working time regularly and to a significant extent falls into standby for work, or standby service.

c) Apart from these general derogations, has the legislator provided for any other special exemptions applicable to the duration of working hours?

Some, for instance for workers to whom the EU Civil Aviation Directive or the EU Road Transport Directive applies

[3] In any event (whether in the absence or presence of a regulation on the duration of working hours):

a) What forms of flexible working hours have been considered, whether by your legislator, the social partners (in collective agreements), or even by the company (intern regulations, employment contract)?

- **Could you explain how it works?**

Part-time work: Employer and employees can agree on part-time work. In order to care for kids parents can claim for part-time work until the child is seven year old;

Flexible work schedules – employees can decide at which part of the day they work;

Compressed weeks (increasing daily hours and decreasing number of days per week);

The ability to accumulate hours and to take time off later.

Also collective agreements may include provisions to make working time more flexible. :

b) Moreover, does your country have one or more of the following forms of flexibility (or other forms of flexibility to be specified):

- **Successive fixed-term contract, interim, layoff, teleworking, part-time work, on-call work contract, occasional work, etc.**
 - Successive fixed-term contracts - restricted
 - Interim work - only in specific cases
 - Layoff- Yes
 - Parts-time contracts - Yes
 - On-call work – No
 - Occasional work- Yes.
 - Teleworking - Yes

[4] or specifically, in your country, is there a possibility to work outside of the workplace, for example at home?

Yes, 'teleworking' can be agreed but there are almost no specific statutory provisions.

If so:

a) What kind of control can the employer have over the employee working outside of the workplace?

External employees may for instance visit customers and solicit orders. Usually, there are no specific rules, but employer has the option to direct the employee

Telework: The employer has a right of control the work result, but he is unable to access the workplace of the employee as easily as on his own premises. Therefore they may conclude certain provisions for this topic in teleworking contracts

b) Do the employers have to reimburse the employee for certain costs associated with this type of work?

There are not specific provisions in statutes or decisions, but generally the employer is required to furnish the workplace. So the employer will also have furnish the workplace of a tele worker (computer, desk, printer, chair, other office equipment) and maintain the devices at his cost as well as reimbursing the employee for incidental costs (electricity, heating costs and so on). Details should be regulated by contract.

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Judge

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