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Murad Aliyev
Istanbul University
PhD student
https://orcid.org/0009-0004-6967-6858
aliyevmurad304@gmail.com

Flexible and Atypical Form of Employment: Legal and Economic Implications

Abstract

This paper explores the legal and economic implications of flexible and atypical forms of employment in the context of globalization and the modern labour market. The increasing use of fixed-term contracts, outsourcing, out-staffing, part-time work, and aggregated working time accounting reflects employers' efforts to reduce personnel costs and adapt to fluctuating demand. While such flexibility is often presented as a necessity for building an innovative economy, it raises significant concerns regarding social security, job protection, and legal compliance. The study highlights the lack of clear legislative definitions for typical and atypical employment and analyses the risks of eroding labour rights through practices such as personnel leasing. It argues that although flexibility contributes to operational efficiency, it must be accompanied by stronger safeguards to prevent discrimination and ensure legal guarantees for all workers. The conclusion emphasizes the need for legal reforms that balance labour market adaptability with the protection of fundamental worker rights.

Keywords: *atypical employment, flexible labour regulation, personnel leasing, outsourcing, out-staffing, labour law, wage optimization, labour rights, part-time work, fixed-term contracts*

Murad Əliyev
İstanbul Universiteti
doktorant
https://orcid.org/0009-0004-6967-6858
aliyevmurad304@gmail.com

Çevik və atipik məşğulluq forması: hüquqi və iqtisadi təsirlər

Xülasə

Bu məqalədə qloballaşma və müasir əmək bazarı kontekstində çevik və atipik məşğulluq formalarının hüquqi və iqtisadi təsirləri araşdırılır. Müddətli əmək müqavilələri, autsorsinq, autstaffinq, qismən iş vaxtı və cəmləşdirilmiş iş vaxtının uçotu kimi formaların getdikcə daha geniş tətbiqi işəgötürənlərin əmək xərclərini azaltmaq və dəyişkən tələblərə uyğunlaşmaq səylərini əks etdirir. Belə çeviklik tez-tez innovativ iqtisadiyyatın qurulması üçün zəruri vasitə kimi təqdim olunsa da, bu yanaşma sosial təminat, iş yerinin qorunması və hüquqi tənzimləmə baxımından ciddi narahatlıqlar doğurur. Tədqiqatda tipik və atipik məşğulluq anlayışlarının qanunvericilikdə dəqiq şəkildə müəyyən edilməməsi vurğulanır və işçi qüvvəsinin icarəsi kimi təcrübələrin əmək hüquqlarının zəiflədilməsi riski yaratdığı qeyd olunur. Məqalədə çevikliyin əməliyyat səmərəliliyinə töhfə verdiyi qəbul edilsə də, diskriminasiyanın qarşısının alınması və bütün işçilər üçün hüquqi təminatların qorunması məqsədilə daha güclü hüquqi mexanizmlərin vacibliyi müdafiə olunur. Nəticə etibarilə, əmək bazarının uyğunlaşmasını təmin edən, eyni zamanda işçilərin əsas hüquqlarını qoruyan hüquqi islahatlara ehtiyac olduğu vurğulanır.

Açar sözlər: *atipik məşğulluq, çevik əmək tənzimlənməsi, işçi qüvvəsinin icarəsi, autsorsinq, autstaffinq, əmək hüququ, əməkhaqqı optimallaşdırılması, əmək hüquqları, qismən iş vaxtı, müddətli müqavilələr*

Introduction

In the 21st century, the challenges posed by globalization to labour law include rising unemployment, the declining role of trade unions, growing issues related to workplace discrimination, the payment of unfair wages, the conclusion of atypical employment contracts, and others.

Employers are increasingly interested in personnel leasing, "computer-based" home workers, the widespread and often unjustified use of fixed-term employment contracts, and the adoption of more flexible and frequently excessively differentiated wage systems. The use of part-time work, moonlighting, and flexible work schedules is becoming increasingly common. The conclusion of apprenticeship contracts, in some cases, allows employers to avoid setting a probationary period.

Research

Flexible and Atypical Forms of Employment

Improving labour legislation towards more flexible regulation should include the optimization of legal regulation of labour relations in various areas, such as the legislative recognition of non-standard (or atypical) forms of employment (Lind, 2018). These may include: the use of leased labour, the expansion of fixed-term employment and civil-law contracts, broader implementation of part-time work regimes, optimization of labour for existing employees (in particular, increasing the share of job or position combination), and wider use of home-based work (De Groen et al, 2017).

Labor legislation does not provide any definition of the terms "typical employment" and "atypical employment." Based on etymology, the word "typical" means something that occurs frequently, is characteristic, or widespread. Dictionaries define it as: *"Having features characteristic of a certain type; representative."* Accordingly, the typical form of employment should be considered work under a classic labour contract, concluded for an indefinite period, with a standard-length workday and a full wage. Thus, the forms of employment mentioned above are considered atypical (Florczak, 2020).

Increasing flexibility should not signify a return to free-market mechanisms; instead, new forms and methods of regulation should be used (Madsen, 2007). Otherwise, this may lead to discrimination in labour relations, reduced worker protection, and non-compliance with labour guarantees. This perspective is reflected in the acts of the International Labour Organization (ILO), as well as in both foreign and domestic research. According to ILO experts, a certain degree of labour flexibility is acceptable when it does not undermine standard labour relations and is based on labour market guarantees, thereby ensuring protection during transitions to new jobs (Liukkunen, 2021).

For most employers, the issue of more flexible regulation of labour relations stems from a natural desire to increase profits, which is partly achieved by reducing employee-related expenses. Wage flexibility refers to the degree of responsiveness of labour costs in relation to economic conditions (Babecký & Dybczak, 2012).

The absence of flexible mechanisms for regulating labour relations, the economic situation in the country and the labour market over the past several years, as well as changes in the taxation system, force employers to make rather tough decisions to minimize labour costs. Competition in the services market demands a reduction in production costs. However, this is impossible to achieve without reducing labour expenses and without determining the optimal number of employees.

According to many economists, one of the most common and fastest ways to reduce personnel costs is to reduce the number or positions of employees (Ton, 2014; Uraikin, 2017). Despite the additional expenses associated with severance payments during layoffs, this method produces a quick and noticeable effect in the form of labour cost savings.

In practice, excessive labour costs can result from four main factors (Liu et al, 2017):

1. A mismatch between the number of employees and the volume of work ("a side effect of optimization");
2. Production-related downtime;

3. Non-production-related downtime;
4. A suboptimal wage and incentive system.

One flexible way to address these issues is to combine various work schedules: flexible working hours, splitting the workday into parts, part-time work arrangements, etc. In the case of irregular production processes, it is possible to avoid paying overtime by transferring part of the staff to an aggregated working time accounting regime. In this case, additional work during peak periods could be compensated by granting rest during other periods.

A step toward saving personnel costs in times of decreased workload may be the introduction of part-time work, as outlined in the Labor Code of the country. The first option is more complex, as it requires the employer to comply with several conditions:

1. Justification for introducing such a regime (organizational or technological changes);
2. Implementation is allowed only after a two-month notice period;
3. The measure must aim to prevent mass layoffs;
4. It must be impossible to maintain previous working conditions;
5. The employer must consider the opinion of the elected body of the primary trade union organization, and others.

Employers tend to prefer the provisions of the labour code, under which part-time work can be established by mutual agreement of the parties. Wages are paid either for the time actually worked or for the amount of work performed. This results in clear savings on labour costs.

An equally effective measure is the implementation of a split workday schedule (according to the labour code of the specific country). This arrangement allows employers to save on overtime pay, as during periods of no production demand, no tasks, or no clients/customers, the employer can assign breaks between parts of the shift by using an aggregated working time accounting system.

The conclusion of fixed-term employment contracts, which has become widespread in recent years, is also a response by many employers to the inflexibility of labour legislation (Blanpain, 2010).

Employers' interest in making labour legislation more flexible is obvious. Their main argument is the claim that flexible labour legislation is essential for building an innovative economy.

Flexible methods of utilizing the workforce also include internal job combination (dual roles), outsourcing, temporary staffing, and expanding service areas (Dong & Ibrahim, 2017).

Combining professions or positions allows one employee to perform nearly double the amount of work, while only the labour resources of a single individual are used. In practice, even when employers reduce the number of employees or positions, they often still need certain tasks or workloads to be completed. However, for various objective reasons, they are compelled to reduce personnel. The possibility for an employee to perform duties in an additional position or to take on increased volumes of similar work allows the employer to save on labour costs. In such cases, only one worker is subject to pension and social insurance, and wages are paid to just that one employee. The additional payment for the extra workload is only a fraction of a full salary, calculated based on the amount of work assigned.

According to experts, leased labour, as an element of the labour economy, reflects the needs of modern production, which allows for efficient cost management related to personnel. Leased labour is considered a tool of modern business that, when properly regulated, provides society with additional jobs and the state with tax revenues (Esbenshade & Shifrin, 2019).

However, this viewpoint is not without controversy. The leasing of personnel—whether for temporary roles or otherwise—has already become widespread. There are frequent violations of workers' rights and a reduction in the level of protections guaranteed by labour law, especially in cases involving workers employed in hazardous workplaces or under harmful production conditions. Nonetheless, since the primary goal of any business is to reduce the cost of goods and services, including by minimizing labour expenses, the use of leased labour continues to expand rapidly.

Forms of leased labour include outsourcing and out-staffing.

Outsourcing essentially involves the transfer of traditional non-core functions of an organization—such as accounting or advertising—to external providers: outsourcers, subcontractors,

or specialists from third-party firms. It refers to the delegation of specific business processes or production functions by a company to be serviced by another company.

The organization providing the personnel does not assume responsibility for performing any specific services (in terms of organization, management, production, etc.), as its duty is limited to supplying a certain number of workers with the required qualifications. Payment for the provided personnel is usually set in advance as a fixed rate (per hour or standardized hour).

Thus, the receiving company pays not for specific services rendered but for the working hours performed by the supplied personnel.

It is more appropriate to transfer employees with time-based wage systems under personnel provision contracts. The provided personnel do not render services or perform any actions on behalf of the provider. None of the personnel are considered employees of the receiving party and are not in a civil-law relationship with it as a result of such a contract. The provider bears full responsibility for the payment of wages and other compensation to the personnel if such payments are stipulated by its internal remuneration and incentive policy. It is also responsible for ensuring that the personnel are granted the legally mandated social and labour guarantees and benefits, including compensation in cases of occupational injury or other harm to health caused by the employer, the payment of state social insurance benefits, and the preservation of average wages during training periods. The provider also carries out the payment of taxes and other mandatory budget contributions related to employee remuneration and acts as a tax agent for withholding personal income tax (Nerinckx, 2016).

The primary advantage of this form of labour usage lies in cost reduction. The company pays only for those services and work that are actually needed, thereby saving financial resources. Only the final result is compensated, meaning there are no costs associated with non-productive losses such as defects or downtime. Furthermore, the client organization is relieved of the responsibility to organize or supervise the work process performed by the outsourcer.

Equally effective in terms of reducing personnel expenses is the out-staffing system, which involves removing employees from the official staff list and transferring part of the workforce to a staffing agency. The subject of such a contract is the contractor's service of recruiting and assigning workers to carry out job functions in the interests of the client. From the employer's perspective, out-staffing allows for administrative cost reduction, a decrease in wage expenses, a diminished need to comply with the guarantees provided by labour legislation, a reduction in potential conflicts with employee representative bodies, and the ability to hire temporary staff to fulfil specific business projects.

The flexible forms of employment examined here and the corresponding reduction in labour costs do not absolve the employer from the obligation to comply with labour legislation. Increasing flexibility in labour relations must be accompanied by enhanced protection of labour rights through the modification of the labour law framework and the elimination of discrimination against workers employed under atypical contracts.

Conclusion

In the context of globalization and the evolving nature of labour markets, flexible and atypical forms of employment have become an essential feature of modern economic systems. While such practices—ranging from outsourcing and out-staffing to part-time work and fixed-term contracts—offer clear financial and operational advantages for employers, they also raise important legal and ethical concerns. The pursuit of flexibility must not come at the cost of eroding labour protections. Employers often seek to minimize personnel costs by utilizing leased labour and non-standard contracts, yet this approach may compromise workers' rights, particularly in terms of social security, workplace safety, and job stability.

Therefore, the development of labour legislation should aim to strike a careful balance: it must allow for economic efficiency and innovation while ensuring that the core principles of decent work, legal security, and non-discrimination are upheld. The legal framework must evolve to recognize atypical work arrangements without weakening the protective function of labour law. In this regard,

both national regulators and international institutions, such as the ILO, play a vital role in promoting fair labour standards in the face of increasing flexibility. Only through integrated and adaptive legal reforms can modern labour relations be both dynamic and just.

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