



Working Time and Work–Life Balance in Romania during the Pandemic. Issues and Evolutions

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Abstract. The effects of the coronavirus pandemic did not leave the world of work untouched. In the new circumstances, challenges and tasks that had previously been widely debated came to the fore. Among these, we can list the issues of working time and rest time, and consequently the work–life balance or sometimes imbalance of the employees. As a result of the pandemic, some processes that have been observed in labour law for a long time have been accelerated. In our opinion, the particularity of the current situation is based on the considerable size of digitalization, the use of new technologies in work, and the widespread use of atypical labour relations, which had a major impact on the solutions that were chosen to countervail the effects of the pandemic.

Keywords: working time, work–life balance, labour law, teleworking, atypical employment

1. Introduction

The coronavirus pandemic affected our lives in many ways and domains, including the working conditions and working time, our situation as employees, and, finally, the way we manage to realize a sometimes tenuous balance between our family life and leisure time on the one hand and working time on the other hand. Still, as it is demonstrated in the labour law literature, crisis situations created by pandemics or other kinds of disasters are well-known in history, and they are important experiences to learn from when speaking about legal measures needed to combat crises.

In order to learn more about this kind of crisis management in labour law, we must see what kind of special provisions were brought into law and what practices were used concerning the employment relationship.

The starting point of studying these legal measures must be the fact that employer–employee interaction in the workplace is covered by labour regulations applicable to that particular location. These legislative enactments, regulations, policies, and guidelines determine the allowable distances between two workstations, the method of working, protective gear that need to be utilized, the level of ventilation, sanitation, hygiene levels that need to be maintained, sick leave, illness benefits, and many other workplace aspects. Both global pandemics and epidemic situations alter the conditions governing employment, the ability of employees to report to and engage in work, and the ability of employers to keep the worksites open and accessible to employees.¹

Though crisis situations influencing the labour market and labour regulations have been experienced several times in history, the COVID-19 pandemic brought into light some different aspects and variables. In our opinion, the particularity of the current situation is based on the considerable size of digitalization, the use of new technologies in work, and the widespread use of atypical labour relations, which had a major impact on the solutions that were chosen to countervail the effects of the pandemic. The impact of new technologies on working time and work–life balance has been much discussed in the last few years. The ILO, for example, drew attention that the information and communication technologies are having an increasingly important impact on the organization of work as well as on the length and arrangement of working time, contributing to the development of telework and the blurring of boundaries between working time and rest periods. The ILO documents and reports demonstrate that the development of the platform economy and on-demand work also have consequences for the organization of working time. While recognizing that these working arrangements may offer advantages for both workers and employers, the ILO observes that they are also associated with a number of disadvantages, including the encroachment of work on non-working time and rest periods, the unpredictability of working hours, income insecurity, and the stress associated with the perceived need to be constantly connected to work. That is why the Committee of Experts of the ILO emphasized the importance of these issues being regulated by national legislation, taking into account both the needs of workers in relation to their physical and mental health and work–life balance and the flexibility requirements of enterprises.²

All these novelties that characterize nowadays the labour market and the labour relations are the main reasons why traditional labour laws, which existed during the ‘normal’ times, were not sufficient to address the situations arising out of the COVID-19 pandemic, and thus special provisions had to be introduced in different countries.³ A recently published research paper of the

1 Gunawardena 2021. 5.

2 ILO 2018. 328.

3 Gunawardena 2021. 8.

European Trade Union Institute underscored that Central European economies were similarly affected by the COVID-19 crisis-induced closures at home and along their value chains, yet their anti-crisis policy-making varied significantly.⁴ Concerning labour law provisions brought into force during this period, we can still notice some significant similarities. A number of common tools were used, such as teleworking or short-time working, paid leave schemes as well as tax/social security payment deferrals. For example, research demonstrates that the core workforce received temporary protection through some forms of reduced working time programmes (*Kurzarbeit*) in all Central European countries.⁵

Despite the efforts made for the COVID-19 crisis management of the countries, we must notice that the conflicts between labour legislations and the state rulings on pandemic prevention mechanisms are increasingly pushing the legislators in all countries towards amending the labour laws to suit the necessities of the current pandemic situation,⁶ and that implies negative effects on the labour market and labour relations as well.

Regardless of the provisions and measures introduced in different countries, it seems that from the labour law point of view there are no winners of the situation, a large part of the workers facing a deteriorative status instead. Unfortunately, it is very clear for now that the already disadvantaged categories of workers are bearing the brunt of the losses that stem from the newly created legal measures necessary for the management of the pandemic crisis. In this context, the effects of the shocks are particularly harsh on specific groups of workers. These are the less educated workers, who are typically engaged in low-paying, precarious, and unstable work arrangements in sectors that have been the hardest hit by the shocks. Furthermore, the less educated are typically employed in sectors where the first-order effects of the pandemic have been severe and the options for remote work are either limited or non-existent. In contrast, high-end service sectors (such as finance, business, real estate and public administration, health, and education) are more amenable to remote work and have a higher share of regular formal employment.⁷

Those workers who are considered to be in a better situation compared to precarious workers, because of their possibility of continuing to work from home office as remote workers, are facing other kinds of difficulties. In their case, the risk of imbalance between work and family life is also high because of the blurred boundaries noticed between working time and free time, as it is regulated in general terms by labour law.

4 Podvršič et al. 2020. 38.

5 Podvršič et al. 2020. 39.

6 Gunawardena 2021. 9.

7 Kapoor 2020. 1.

2. The Legal Background in Romania and the Main Issues Concerning Work–Life Balance before the Pandemic

As we mentioned before, most of the labour regulation issues brought into light because of the COVID-19 pandemic were present before and were widely researched and debated by scholars. These issues are rooted mainly in the transformations of working technologies, digitalization, and the widespread use of atypical forms of employment as teleworking, part-time work, or other atypical labour relations. All these transformations have a serious effect on working time and work–life balance, especially for some particular categories of workers, for example, women (with children), elderly people, or young employees. These effects are not always considered to be negative, but there is a considerable risk inherent in them for negative outcomes. In this context, the role of labour regulations able to ensure flexibility and at the same time security for workers is of the utmost importance.

The Romanian Labour Code (abbreviated as LC) regulates only a few of the atypical employment forms such as temporary work, part-time employment, working from home, and agency work.

According to Article 82 of the LC, an individual labour contract of limited duration can be concluded only as an exception to the rule provided for in Article 12(1) and only in the cases enumerated by the law, with the express mention of its duration.

Articles 88–102 regulate temporary agency work in accordance with the EU directive, specifying that temporary agency work is an activity performed by a temporary employee who, at the direction of the temporary employment agency, carries out an activity for the benefit of a user undertaking.

A part-time employee is an employee whose number of normal working hours, calculated weekly or as a monthly average, is lower than the number of normal working hours of a similar full-time employee, according to art-s 103–107 of the Romanian LC.

And, finally, based on Article 108 LC, it is stated that the employees performing, at their residence, the specific tasks of their position shall be considered home workers.

Apart from the LC, Act No 81 of 2018 (the Teleworking Act) specifies the rules on teleworking. Before the COVID-19 pandemic, the use of these flexible employment forms was quite low. For example, according to data provided by Eurostat, when the European average of remote workers was more than 5%, in Romania there were about 0.4–0.8% of the employees of that status in 2018–

2019.⁸ In the same period, the percentage of part-time workers was just about 6% in Romania, while the EU average was 18.5%.⁹

Flexibility is one of the key factors in labour law these days. This flexibility does involve all aspects of employees' working time and working programme. Looking at the evolution of the quantity of working hours, it is obvious that throughout the 20th century the tendency was to decrease the working hours. But, on the other hand, the new need for flexibility brought to light another problem, that of the scattering of these working hours throughout the day. As a result, many workers are facing a severe blurring of the boundaries between working time and leisure time. This tendency is aggravated by digitalization and the use of information and communications technology in the working process. As a response to this phenomenon, the ILO urges the attention of the states to give a strict regulation to the weekly and daily limits of working time. While recognizing that working-time flexibility may be important for enterprises in order to adapt to the requirements of modern work organization, the ILO emphasizes the importance of reasonable limits and protective safeguards in devising such flexible arrangements so as to ensure that their implementation takes into account the need to protect the health and well-being of workers and to make it possible for them to reconcile work and private as well as family life.¹⁰

Working time is one of the most important factors when speaking about work-life balance, but it is not the only one, especially in the case of atypical employment. In the case of part-time workers, for example, shorter working hours can be associated with unpredictable and split shifts, which may have an impact on family life.¹¹

As flexibility is vigorously increasing, the organization of work starts to attain a bigger role in achieving an acceptable work-life balance than working time itself. Of course, the organization of work is also changing: some people work in their free time because they are asked to, others because they feel expected to do so, and yet others because they just want to, while some can work pretty much anywhere, anytime using information and communications technology (ICT). Research demonstrates that more ICT mobile workers report a poorer work-life balance than other workers do. Still, in this field, the experiences of different countries and the results of the research are somewhat ambiguous. For example, the publication of Eurofound and ILO concluded that both positive and negative effects of ICT on work-life balance are reported by nearly all of the national studies, sometimes even by the same individuals. At the same time, most of the national

8 See: <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20180620-1> (accessed on: 15.02.2021).

9 See: <https://ec.europa.eu/eurostat/en/web/products-eurostat-news/-/ddn-20190621-1> (accessed on: 15.02.2021).

10 ILO 2018. 325–326.

11 Parent-Thirion 2016. 3.

studies include findings related to the ‘blurring of boundaries’ phenomenon – the overlap of the borders between the spheres of paid work and personal life.¹² The quoted publication contains several findings that clearly show the ambiguous nature of the work–life balance experience of the ICT employees. For example, the findings from the European national studies suggest that, although there is substantial scope for improved work–life balance when working in a flexible way using ICT, a relatively high share of employees report that they occasionally, or more often, miss or neglect family activities due to work activities interfering with personal life and at the same time are missing or neglecting work due to family responsibilities. As a conclusion, once more, the outcomes appear to be ambiguous: although ICT workers can use working remotely to improve their work–life balance, they are also at greater risk of working in their free time (their non-paid work time) and reported ‘blurring’ between paid work and other personal commitments such as family responsibilities.¹³

Changes in work organization have now made it possible for some of the employees to access work 24 hours a day, 365 days a year. This is likely to be of growing concern as Europe looks to become more skilled and more digital.¹⁴ And the experiences are not always positive.

The same conclusion is emphasized by many scholars when discussing the Romanian labour market situation. On the one hand, flexible arrangements can play a key role to help various categories of workers (women with children, for example) to make a professional career, but on the other hand it seems that working time arrangements are not favouring workers with children, especially women.¹⁵ This phenomenon is more or less the same everywhere in the world: women spend relatively more time on work and men on personal life. Differences are also noticeable in the time spent on sleep and other physiological needs. Men spend more time on sleep and other physiological needs than women do.¹⁶

Data from a recent research – but one based on a survey made before the pandemic – demonstrate that studies found some variables as prominent to impact work–life balance, most remarkably the work-related variables such as working hours, shift work, and the character of work. Employees working in more than one shift, for example, score significantly lower on the work–family scale.¹⁷

The appropriate allocation of time is obviously crucial for work–life balance. The studies led by the International Labour Office came to the conclusion that employed persons who do not allocate time between private life and work properly experience a conflict of work and/or personal life. So, this is a negative

12 Eurofound–ILO 2017. 29.

13 Eurofound–ILO 2017. 30.

14 Parent-Thirion 2016. 3.

15 Leovaridis–Nicolăescu 2011. 109–110.

16 Lydeka–Tauraite 2020. 111.

17 Sántha 2019.

consequence of time allocation imbalance. Moreover, there can be more negative impacts of this situation on personal career, employee health (physical and psychological), work quality, personal relationships (e.g. social skills), and other problems.¹⁸

3. The Effects of the Pandemic on Work–Life Balance and the Case of Romania

The effects of the COVID-19 pandemic are visible in the world of work in many aspects of it such as unemployment, flexible working arrangements, the rapid spread of teleworking and home office, and, as a conclusion, on employees' working hours and work–life balance. As the pandemic is not yet history but continues to make part of our very life even today, we cannot make any final analysis of the subject; however, there are several findings that are relevant already.

Based on a large e-survey across the EU Member States, the Eurofound research report entitled *Living, Working and COVID-19* dedicated a whole chapter (Chapter 3) to work–life balance problems during the first period of the pandemic. Among the main findings, it is noticeable that at the peak of the COVID-19 pandemic in April 2020, the e-survey respondents – especially women with children under 12 – were struggling to balance their work and personal life. Indeed, although teleworking was a key factor in ensuring business continuity, it has led to a rise in the number of people working from home, resulting in difficulties in managing work–life conflicts and an increase in the incidence of overtime. Women reported more difficulties in combining work and private life than men, particularly when it came to feeling too tired after work to do household work.¹⁹ The updated Eurofound factsheet published a year after the first research shows a very similar state of fact. First of all, despite more severe restrictions being imposed throughout Europe in early 2021 compared to the summer of 2020, teleworking was now less prevalent. While the incidence of working from home has declined in the latest phase of the pandemic, the preference to do so every day has increased since summer 2020. Most employees still express a preference to combine working from home and from the employer's premises. The most popular choice being to work from home several times a week. The difference between men and women in terms of work–life balance, particularly for parents of young children, has been documented. As the pandemic progressed, it was women with young children who declared they were often too tired to carry out household tasks, particularly women who worked exclusively from home.²⁰

18 ILO 2011.

19 Eurofound 2020. 21–22.

20 Eurofound 2021. 2–3.

Concerning the Romanian situation, based on the little research already published, we can observe that there are many similarities with the general reports throughout Europe. In Romania, working from home was a new experience for many employees, and their perceptions were very different; however, most viewed this experience positively. The COVID-19 crisis has led to increased competition in the labour market, increased unemployment, and a general halt in hiring by companies, which instead resort to various policies to reduce staff and expenses. In the current pandemic context generated by COVID-19, there can be observed a risk of a significant increase in the number of hours worked due to staff shortages, restructuring of the business activity, and carrying out tasks under new conditions, including telework.²¹

The deteriorating situation of work–life balance for women is observable in Romania, too. The main part of the different household tasks still falls to women. In this context, working from home office and in flexible forms because of the COVID-19 has affected women more than male workers. The increased tasks of parents due to online schooling has aggravated the situation of women. The combination of all these variables caused a serious work–life ‘imbalance’ on the women’s side, especially those with school-aged children in the pandemic context.²²

While women in Romania are suffering from serious work–life imbalance, the young generation (age-group 20–29), generally without children, are much more prone to agree to flexible working arrangements. They would prefer to work with a schedule of partly or fully flexible working hours than in full-time, fixed, or non-fixed working hours and think that a work–life balance can be found, it is only a matter of perception.²³

As it is remarked by research, the effects of the pandemic on work–life balance and the situation of workers in Romania are quite common. However, at the same time, there is a visible difference between not only the perception and situation of male or female workers but between different generations or professional categories too. As Kapoor emphasized in the quoted publication, the impact of the COVID-19 crisis on workers varies and depends on the nature of the employment arrangement and the sector of employment. There are the more educated workers who are engaged in work arrangements that offer a steady source of income and some degree of social security and who are able to shift their work online. Then there are those who have low levels of education and are engaged in precarious and low-paying work of the kind that does not offer them the luxury of working from home. It would not be unreasonable to expect the latter to account for a disproportionate share of the pandemic-related job losses.²⁴

21 Tecău et al. 2020. 1049–1067.

22 Nistor et al. 2020.

23 Musinszki et al. 2020.

24 Kapoor 2020.

Another classification of the workers, often used recently, is into key (or essential) workers and non-essential workers. Despite the fact that this classification can be quite ambiguous, as it is based on not very strictly determined criteria, it was widely used during the pandemic, and it is widely used even in some of the newly introduced legal provisions concerning labour relations. In most of the countries, those working in sectors absolutely necessary for the community, such as healthcare, public services, education, etc., were considered key workers. On the other hand, those who were employed in sectors that have often been forced to close were categorized as non-essential workers. In both cases and for both categories, the legal provisions newly brought into force concerning their labour conditions had a serious impact on work-life balance, pushing it to an increasing imbalance. In his study, Hodder explains that key workers usually could not work from home, and in the context of the pandemic they were facing increasing working hours, precarious working conditions, and exhaustion. The workers deemed non-essential were massively sent to home office and started to work as remote workers. Interestingly enough, in this new situation, many employees found themselves working from home even if they had been told for some time that flexible work was not an option for them. There is, however, a danger of working from home being presented as a panacea in the current context, when research shows that this is actually far from the truth,²⁵ and there is a price to pay in the field of work-life balance of the employees.

The future evolutions are still uncertain in many ways, especially as the COVID-19 pandemic is far from over, but several international surveys seem to predict a wider expectation of the employees for flexible arrangements, at least in terms of working time and the location of the working activity.

4. Concluding Remarks

The impact of the COVID-19 pandemic is so outstanding that the ILO compared its effects in many ways with the effects of the 2nd World War on labour market and labour relations.²⁶ This unexpected global crisis showed us lessons that are to be learnt. It is almost as if we had the opportunity to have a glance at the future in labour law, and it would be probably wise to use this knowledge after the pandemic to influence the development of labour regulation in a positive direction.

The number of flexible working arrangements is increasing, and that determines an urgent need for a very precise labour regulation concerning working time, the registration of working hours, and working schedules, which sometimes is very problematic for flexible or individualized work, teleworking or home office.

²⁵ Hodder 2020. 263.

²⁶ ILO 2020.

The situation of women (especially those with children) has become more difficult in the newly introduced flexible working arrangement conditions and with regard to the shift to homeworking, and that reinforced gender inequality. Research proves that work–life imbalance is affecting women in a much greater percentage than it does the men. But all employees are endangered by this imbalance that can cause health-related problems and burn-out. In this context, the relevance of the debate about employees' right to disconnect is of an increasing interest. The right to disconnect can be described as the right of workers to switch off their devices after work – without facing consequences for not replying to e-mails, calls, or messages –, and it can be operationalized through a variety of hard and soft measures, determined primarily via company-level agreements.²⁷

As a conclusion, the COVID-19 pandemic has flooded the world of labour with a diversity of problems that need to be debated and solved. Right now, there are many questions to be answered, and labour law must find the adequate answers as quickly as possible for the protection of employees and for the right function of labour relations.

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27 Vargás Llave–Weber 2021. 21–23.

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