



Проект виконується
Міжнародною організацією праці

EU-ILO Project

“Towards safe, healthy and declared work in Ukraine”



Project is funded by European Union

Part-time work

Online training series
International and EU Labour Standards

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Date: Thursday / 16 / July / 2020

▶ Contents

- ▶ Notion of Part-Time Work;
- ▶ Advantages of a Part-Time Work regime;
- ▶ Main problems with Part-Time Work;
- ▶ Main International and EU Labour Standards on Part-Time Work;
- ▶ Implications for policy decision-makers and legal acts' drafting experts
 - ▶ Concepts
 - ▶ Part-time employment relationships' minimum requirements
- ▶ Cases for discussion
- ▶ Q&A

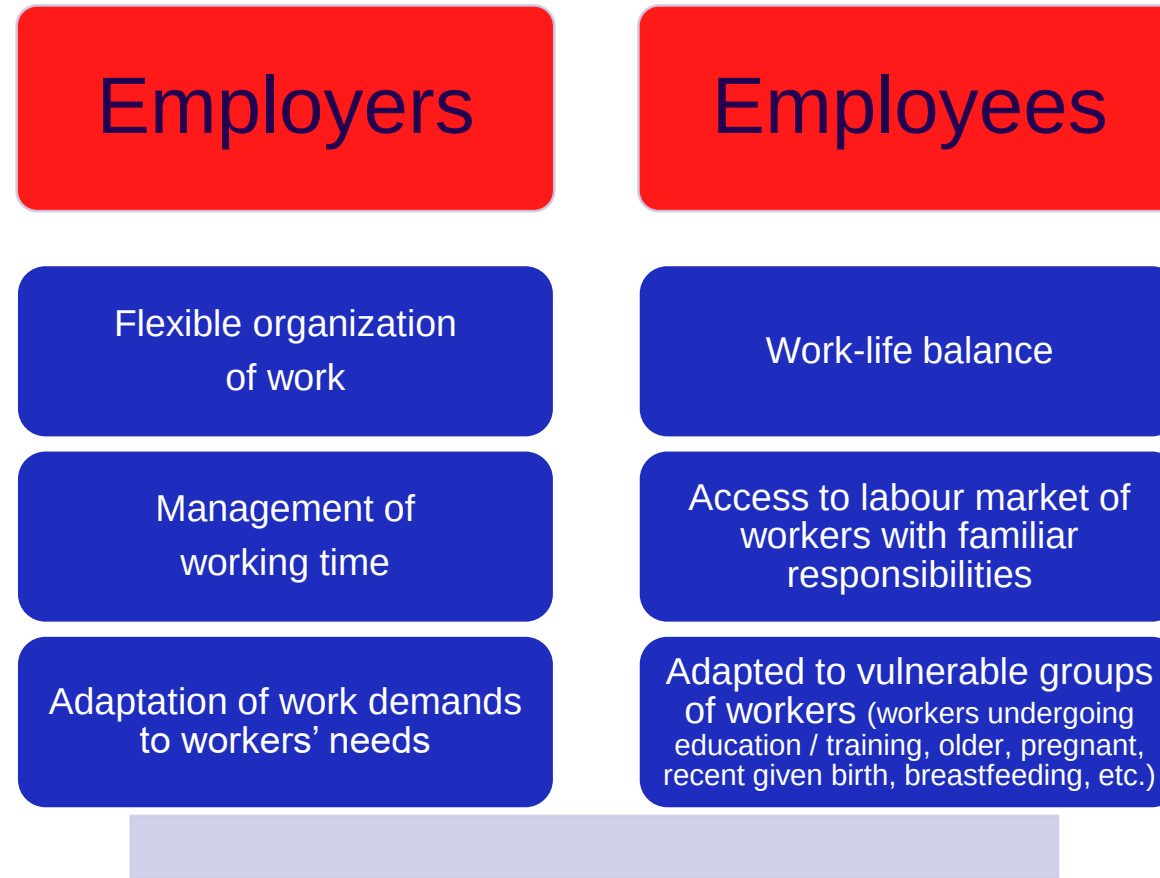
► Notion of Part-Time Work

The one that corresponds to a normal weekly working period (or average working period over a period of employment up to one year) which is shorter than that practiced in full time work in a comparable situation.

It can be performed only in a few days per week, month or year, and the number of working days and working hours should be established by agreement.

▪

Advantages of a Part-Time Work regime



► Main problems with Part-Time Work

- **Discrimination** of Part-Time workers in relation to Full-Time workers in comparable situation, in terms of working conditions, in particular
 - Rights to organize, to bargain collectively and to act as workers' representatives
 - OSH conditions
 - Maternity protection
 - Training
 - Termination of employment
 - Paid annual leave, public holidays and sick leave

► Main problems with Part-Time Work

- **Non-application** of the principle of *pro rata temporis*, when defining (disproportionally) the remuneration of part-time workers
- **Obstacles to changes, and non-voluntary transfers**, from Full-Time Work to Part-Time Work and vice-versa
- **Non-provision of information** to Part-Time workers on the essential aspects of their employment relationship
- **Misuse of Part-Time Work** arrangements to **undeclared** (or partially declared) work
- Difficulties in accessing to statutory **social security** schemes in equivalent conditions to comparable Full-Time workers

► Main International and EU Labour Standards on Part-Time Work

- ILO Part-Time Work **Convention**, 1994 (No. **175**) – not yet ratified by Ukraine
- **Council Directive 97/81/EC**, of 15 December 1997, concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC – to be aligned with by 31.08.2020 (Annex XL of AA)
- **Council Directive 91/533/EEC**, of 14 October 1991, on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship – to be aligned with by 31.08.2021 (Annex XL of AA)
- **Directive (EU) 2019/1152**, of the European Parliament and of the Council, of 20 June 2019, on transparent and predictable working conditions in the European Union

► Part-Time Work Convention, 1994 (No. 175)

- Part-Time workers receive the **same protection** afforded to comparable full-time workers, regarding:
 - The rights to organize, to bargain collectively and to act as workers' representatives
 - OSH conditions and
 - Non-discrimination in employment and occupation
- Part-Time workers **do not receive a lower proportional basic wage** than the basic wage of comparable full-time workers (solely because they work part-time)

► Part-Time Work Convention, 1994 (No. 175)

- Part-Time workers have **conditions equivalent to comparable full-time workers** (in proportion of working hours or earnings) regarding:
 - Maternity protection
 - Termination of employment
 - Paid annual leave, paid public holidays and sick leave
- **Transfers** from full-time to part-time work or vice versa are **voluntary**

► Council Directive 97/81/EC

- Principle of non-discrimination between part-time and full-time workers - in matters of employment conditions, part-time workers shall not be treated in a less favourable manner than comparable full-time workers solely because they work part-time (unless different treatment is justified on objective grounds)
- Principle of *pro rata temporis* – applicable to define proportionally the remuneration of part-time workers
- Worker's refusal to be transferred from full-time to part-time work or vice-versa should not in itself constitute a valid reason for termination of employment

► Council Directive 97/81/EC

► Employers' obligations:

- Consider **workers' requests for transfer** from full-time to part-time work or vice-versa, or to increase working time
- Provide timely **information on the availability** of part-time and full-time positions
- Facilitate **access to part-time work at all levels** of the enterprise (including skilled and managerial positions)
- Facilitate access by part-time workers to **vocational training** and
- Provide appropriate **information to existing bodies** representing workers about part-time work

► EU Directives 91/533/EEC and 2019/1152

- Employers are required to **inform workers** of the **essential aspects** of the employment relationship, in particular:
 - Identities of the parties
 - Place of work
 - Title, grade, nature or category of work (or brief description of the work)
 - Date of commencement
 - End date or duration (if fixed-term)
 - Duration and conditions of probationary period
 - Remuneration: initial basic amount, other components (separately), frequency and method of payment
 - If work pattern is entirely/mostly predictable: length of standard working day/week (with comparative reference to full-time work), overtime arrangements (and remuneration) and shifts
 - If work pattern is entirely/mostly unpredictable:
 - Indication that work schedule is variable, no. of guaranteed paid hours and remuneration for work performed in addition to those
 - Reference hours and days within which the worker may be required to work
 - Minimum notice period to worker before start of a work assignment and deadline for cancellation

► EU Directives 91/533/EEC and 2019/1152

- Institution of **legal presumptions and settlement mechanisms** to be applied when workers are not timely provided with required information, namely:
 - Benefit from **favourable presumptions** (which employers shall have the possibility to rebut)
 - Possibility to **submit a complaint** to a competent authority or body and to receive adequate redress in a timely and effective manner
 - Access to effective and **impartial dispute resolution** and a **right to redress** in the case of infringements of their rights (including for those workers whose employment relationship has ended)
 - Measures to **protect workers from adverse treatment** and from any adverse consequences resulting from a complaint lodged with employer or resulting from any proceedings initiated with the aim of enforcing compliance with their rights

▶ Concepts

▶ **Part-time worker:**

- Employed person whose normal hours of work, calculated weekly or on average over a given period of employment, are less than those of comparable full-time workers

▶ **Comparable full-time worker:**

- Is a worker who has the same type of employment relationship
- Is engaged in the same or a similar work/occupation (with due regard being given to other considerations which may include seniority and qualification/skills) or
- Where there is no comparable full-time worker in the same establishment, the comparison shall be made by reference to the applicable collective agreement or, where there is no applicable collective agreement, to national law, collective agreements or practice

► Part-time employment relationships' minimum requirements

Information on the essential aspects of the part-time employment relationship:

Legislation should provide that employers are required to provide timely* and written information to part-time workers on the essential aspects of their employment relationship and, at least, on:

- | | |
|---|--|
| 1.1. Identity of the parties | 1.6. Entitlement to training, if any |
| 1.2. Place of work | 1.7. Amount of paid leave |
| 1.3. Category of the worker or description of work | 1.8. Procedure for termination of the employment relationship |
| 1.4. Start date of the employment relationship and, for fixed-term part-time work, its duration or end date | 1.9. Remuneration: amount, components, frequency and method of payment |
| 1.5. Duration and conditions of the probationary period, if any | |

► Part-time employment relationships' minimum requirements

Information on the essential aspects of the part-time employment relationship:

1.10. If work pattern is predictable: weekly work schedule (with comparative reference to full-time work), overtime and shift arrangements

1.11. If work pattern is mostly unpredictable:

- No. of guaranteed paid hours and the remuneration for additional hours
- Reference hours and days when work may be required (with comparative reference to full-time work)

- Minimum period of notice before the start of work and the deadline for cancellation

1.12. Applicable collective agreements

1.13. Social security institutions receiving contributions

*The information on points 1.1–1.5 and 1.9 –1.11: no later than 7 calendar days from the start of employment; the one on points 1.6–1.8 and 1.12–1.13: within 1 month from the start of employment.

► Part-time employment relationships' minimum requirements

Legal presumption of full-time work:

- It shall be legally presumed to exist a full-time employment relationship whenever the part-time agreement:
 - Did not observe the written form or
 - Does not indicate the normal daily and weekly working period with comparative reference to full-time work

► Part-time employment relationships' minimum requirements

Part-time working conditions:

- It should be provided in legislation that Part-time workers:
 - May not have less favourable treatment than the full-time workers in a comparable situation, unless different treatment is justified for objective reasons, which may be defined by a collective agreement
 - Are entitled to the basic remuneration and other benefits provided for by law or collective agreement or, where they are more favourable, to those received by full-time workers in a comparable situation, in the proportion of the respective normal weekly working period

► Part-time employment relationships' minimum requirements

Changes in work-time regime:

- It should be foreseen in legislation that:
 - Part-time workers may be transferred to full-time time work, or vice-versa, on a permanent basis or for a specified period, by written agreement with the employer
 - Where the transfer from full-time work to part-time work occurs for a specified period, the workers are entitled to resume the provision of full-time work after that period

► Part-time employment relationships' minimum requirements

Employers' specific obligations in case of part-time work:

- Legislation should provide that, where possible, employers are required to:
 - Take into account the employee's request to change from full-time work to part-time work available at the establishment
 - Take into account the employee's request to change from part-time work to full-time work, or to increase his/her working time
 - Facilitate access to part-time work at all levels of the organization, including management positions

► Part-time employment relationships' minimum requirements

Employers' specific obligations in case of part-time work:

► Legislation should also foresee that employer shall:

- Provide workers, in a timely manner, with information on the part-time and full-time jobs available in the establishment
- Provide employee's representatives with adequate information on part-time work in the organization

Resources on the EU-ILO Project site ilo.org/shd4Ukraine

Background paper

Infographics

And more...



- Power Point Presentation
- ILO Convention, 1994 (No. 175)
- Council Directive 97/81/EC
- Council Directive 91/533/EEC
- Directive (EU) 2019/1152



Julia

A high qualified certified accountant, with 10 years of relevant experience, 4 of which with the current employer



Works part-time in a company, in order to have time to take care of her 2 kids



Earns a basic salary of 500\$/month



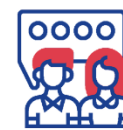
Their working schedule: Monday-Friday, 9:00-13:00 and 14:00-18:00



Has the working schedule: Monday-Friday, 14:00-18:00



They have less qualifications and only 5 years experience (of which only 2 in that company)



Recently realized that her 2 colleagues earn a basic salary of 1,400\$/month. They do precisely the same job as she does



When she brought it to the attention of the employer, he argued that she was just a part-time worker

Quid juris?

Quid juris?



Sofia

A medical student, works part-time as sales representative at a pharmaceutical company



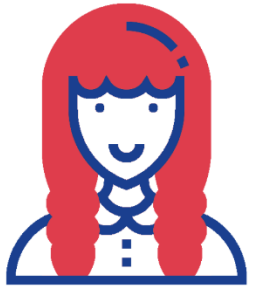
Earns a basic salary of 700\$/month and works Monday-Friday, 09:00-13:00



She realized that 3 of her colleagues, all full-time sales representatives, were scheduled for a training on a new product, for which she was not invited



When she confronted the HR department about it, she was told that she was not invited because they feel that there was no point on investing in a worker that is just on a part-time work regime...



Liudmyla

Works in a shop for 4 years



She had a full-time job there but, for the last 2 years, since her mother got sick (needing home-care), she is working part-time (Monday - Friday, 09:00-13:00) at her request



Her colleague, that also works part-time on the same days (but 14:00-18:00) quit



She refused because she still needs to continue taking care of her mother.

Quid juris?



Her employer proposed her to resume work in a full-time work regime, as before



Her employer threatened to dismiss her...

Q&A



Contacts

Дякую за увагу!

Thank you for your attention!





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Labour
Organization

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