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The Economic and Labor Market Importance of the 'Call For Work' System

Abstract: Call for work is situated among atypical forms of employment, as a special case of part-time work where instead of being determined by work hours, it is much more closely connected to the occasional nature of work. In practice, this means that legislative directions present in Hungarian law-making are in line with European political directives to stimulate the economy with flexible labor Code regulations that fit the actual needs of the labor Market and aid the growing of employment and contribute to the stabilization of social security in this way. The aim of this paper is to highlight the weaknesses and also the strengths of this legal institute.

Making employment more flexible has many benefits beyond the obvious systems of interest of employers and employees. It is not unreasonable to say that black and gray economy has grown to alarming sizes in Hungary: enough people gain their benefits without taxation and their employers gain enough additional profit to the degree where this weakens both social and economic structures. Therefore it is necessary to create options which promote the legalization of employer activities. With an easily mobilized, low cost system the possibility of this increases, because at some point the avoidance of paying *taxes / benefits / social contributions* might cost more than including them in the budget. However, it is important to note that many employees find themselves in a position where the conditions of traditional – typical employment can not be fulfilled either completely or only with great difficulty, for a temporary or longer duration. The underlying causes can be deteriorating health, social difficulties or issues within the family, or even participation in training. Flexible possibilities in employment that fit social and economic needs have a good chance of moving both parties in the desired direction.

The recognition of this need is what led to the diversification in the forms of employment in Hungary, among which the call for work system is only one atypical form of work.

The most prominent requirement when it comes to atypical work forms is the provision of employee security while fulfilling the needs of the employer. This requirement is reflected in the term Flexicurity. The words that make up this construct (flexibility + security) denote its intended meaning, it is certain that while flexibility is highlighted the creation of security cannot be neglected.

Flexibility must primarily mean a successful transition from either unemployment to employment, or from one workplace to another.

Meanwhile, *Security* must be more than maintaining employment¹

¹ See details: Éva Vojtek: [„Flexicurity”, the European Model of the Future of Work] PTE BTK http://www.google.hu/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCAQFjAA&url=http%3A%2F%2Fwww.ddrfk.hu%2Ffiles%2Fflexicurity.ppt&ei=HoQfVcDKMcT0UtesgZgF&usg=AFQjCNF_C8IXYYMjawLFtOawh4Kcg_rXQ&bvm=bv.89947451,d.d24 time of download: 2015.03.31 17h 25'

“The new forms of security are not workplace-, but employee-oriented. They aim to provide quality employment for young people. They are directed towards helping employees in acquiring new skills/professions within the company. They provide aid in switching workplaces, and adequate support during the time without employment. The European Council asked the Commission, and along with it the member states and social partners, to develop the common principles of flexicurity.”²

Security does not mean that employees must remain employed at their current workplace, rather that the transition between two workplaces be secure.³ Employees must be receptive to training that might not be upward-moving, but similar to their current qualification although in a different professional direction. In the period of transition, it would be required to provide social or unemployment support in addition to training using active tools of the labor market, in order to facilitate a return to employment. One of the main issues of the Hungarian labor market is the fact that once someone loses their employment, they are only able to find a workplace that matches their qualifications and qualities where the pay is also adequate after a long time and with considerable difficulty. The solution might be found in the incentivizing effect of the difference between the income achievable through work and the benefits available without work. There are endeavors to develop this effect, but the economy is not yet able to create a significant difference in income between the unemployed and those who work for low wages.

The Elements of Flexicurity

The statement that the expansion of atypical employment forms might expand the flexibility of the labor market gained prominence during the development of the elements. It is vital, however, that if employees are positioned in this way due to economic or social pressure, that might cause the erosion of security. Taking every emergent issue into account, the following prime elements were developed in the strategy:

- flexible and reliable contract forms, modern labor law regulation,
- comprehensive strategies for lifelong learning (LLL),
- effective, active labor market tools,
- modern social security systems.⁴

According to economic analyses, these components reinforce each other mutually, and increase employment, including the employment for the most disadvantaged groups of the labor market such as women, young and elderly employees, as well as reducing the risk of poverty and increasing social capital⁵.

The Position of Call For Work Among Atypical Forms of Work

The preliminary strategical directives from Lisbon discussed above lead to flexible forms of employment, such as call for work.

² Vladimír Špidla European Commissioner responsible for Employment, Social Affairs and Equal Opportunities

³ T. Wilthagen, F.H. Tros: The Concept of Flexicurity: A New Approach to Regulating Employment and Labour Markets, Transfer, European Review of Labour and Research, Vol.10, No.2, 2004. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1133932 Time of download: 2015.04.19.

⁴ European Commission (EC2007b)

⁵ www.echosurvey.hu/_user/browser/File/.../npm_nr2_vg.pdf time of download: 2015. 02. 15. 21h

In the European Union a separate regulation was developed specifically about part-time employment, distinctly separating it from other atypical legal relationships. Establishing the framework agreements signed on 1996.06.06. was not easy in the least. An intense debate developed between the representatives of member states concerning the rights of part-time employees. Earlier agreements by social partners granted practically equal rights to part-time employees when compared to full-time employees⁶.

With the agreement of partners, the directives relating to part-time work were recorded on 1997.12.15. under 97/81/EC⁷.

During the application of the directive, specially attention needs to be paid with respect to the definition of a part-time employee, especially since the Hungarian legal system did not follow the European directives with complete accuracy, but after having joined it is required to pursue legislative harmonization⁸. Call for work is strictly speaking a flexible manifestation of part-time work, where the scheduling of work hours is adjusted to fit the employer's economic interest. The following questions need to be considered in relation to call for work:

- Which group of employees benefit from call for work?
- Is the unity of security and flexibility created?
- Is it possible that the increased autonomy of signing a contract leads to either party suffering a significant detriment?
- Is it possible to reduce the employer's risks involved with the occasional nature of work with this form of employment?

The Background of changes to the Labor Code

In order for the level of employment to improve by a meaningful margin, it is necessary to make the labor market more flexible. The framework for this flexibility needs to be built on a modern labor law system which sufficiently able to meet a European standard.

When discussing these issues, one must not neglect mentioning points raised by the Lisbon Strategy-based green papers (COM/2006/708 final)⁹ because establishing a harmonious union of flexibility and security is required during the modernization of employment. The green papers raised awareness for member states about necessary legislative steps in developing flexible employment and the social security of employees. As per the new regulation, it is safe to say that European work norms are apparent, and expand on to collective labor law as well¹⁰.

⁶ Veneziani 1992.26 discusses the application of equal treatment with regards to wages and additional social benefits (see also, the work of Jácint Ferencz)

⁷ Council Directive 97/81/EC of 15 December 1997 concerning the Framework agreement on part-time work concluded by UNICE, CEEP and the ETUC – Annex: Framework agreement on part-time work.

⁸ See: Zoltán Bankó: Atypical Forms of Employment 2008. Pécs. What constitutes a part-time worker is a key issue. According to the directive, a part-time worker is an employee, whose weekly or average work hours under a set duration of time that does not exceed one year are lower than a comparable full-time. “Comparable full-time worker” denotes an employee working full-time under the same employer, taking into account the time spent working, education and professional qualifications. If no such employee is available, then the comparison needs to be made based on the collective agreement in force, or if no collective agreement is available, the laws and practice of the given member state.

⁹ Related European Union legislation: Opinion of the European Economic and Social Committee on the ‘Green Paper — Modernising labour law to meet the challenges of the 21st century http://ec.europa.eu/green-papers/index_hu.htm time of download 2015 02 20 21h 04’

¹⁰ Commentary for Act 2012/I. concerning the Labor Code (dr. Zoltán Bankó, dr. Gyula Berke, dr. Edit Kajtár, dr. prof. György Kiss, dr. Erika Kovács)

An initial need for flexible forms of employment on a global level dates back as far as the 70's but the term was not important in Hungary until the change of regime due to the social structure at the time. The legal system follows the change in needs slowly, but we can say that today there are definite signs that even legislation has begun a change of direction. A striking demonstration of this can be found in the changes issued to the Labor Code starting with the modifications of December 2011, which continued on with later echelons. As a part of the European Union, Labor Code was re-imagined as part of the legal harmonization, in accordance with incorporating European requirements into Hungarian legislative practice. The name of the law was also changed, signaling that legislation has adapted to provide greater freedom, and to be flexible with regard to the current social and economic situation. Atypical forms of employment are not as common in Hungary as they are in countries that are more economically and socially advanced. Employers and employees are slow to gauge the significance of being able to handle situations where the typical form of employment is not functional with the use of atypical forms. Flexible work organization can be a solution to employee life situations where greater professional constraints are incompatible with their lifestyle. The job of a legislator is to create harmony between the security of employees and the interests of employers. The new Labor Code definitely supports flexible employment, but does not neglect establishing security for employees either, while it is still characteristic that it is not allowed to deviate at the employee's detriment in a work contract.

Legal Regulations

It is a sign of the modernization of legislation that the labor Code permits a previously unprecedented freedom when signing contracts of individual and collective rights. As mentioned earlier, it is not allowed to deviate in a work contract to the detriment of the employee, but in case of collective rights, the legislation is more forgiving. As a result, the areas of responsibility for labor market agents has expanded, but their effect on growing dialogue has also increased. The paradigm shift necessary for the transformation is already apparent in the general rulings of the legislation. Not only does it protect employees from a social side, but also from an economic one; meanwhile, it provides a related protection of interest to the employer in both the economic and the social sense. Legislation then aims to harmonize these fundamentally opposing sides¹¹.

Analyzing the Legislation

When analyzing the relevant legislation, it is worth noting that work organization is done by the employer's side, and the use of the particular group of atypical work forms that call for work belongs to are motivated chiefly by the interests of the employer¹².

¹¹ Commentary for Act 2012/I. concerning the Labor Code (dr. Zoltán Bankó, dr. Gyula Berke ,dr. Edit Kajtár, dr. prof. György Kiss, dr. Erika Kovács.

¹² Jácint Ferencz A Complex Approach to Atypical Forms of Employment Doctoral thesis Széchenyi István Egyetem Állam- és Jogtudományi Doktori Iskola Győr 2014. file:///C:/Users/feek/Downloads/%C3%A9rtekez%C3%A9s_munkahelyi%20vit%C3%A1ra%20(2).pdf Time of download: 2015. 04. 22. pp.21.

In legislation, call for work can be found in special rulings for specific types of employment, where the legislator discusses necessary special information and requirements for practice relatively briefly¹³.

During practical applications, certain issues have surfaced that still require addressing, but the relevant general rulings of the Labor Code provide adequate guidance in these problematic cases. Call for work is a form of part time employment where work is aligned with its occasional nature, which is a brave new solution in Hungarian employment systems. Compared to earlier practices for similar situations such as by-work / simplified employment, call for work constitutes a distinctly more modern solution. The established rulings create a real dynamic in legal practice, as well as creating an element of security for the employee by way of employment.

Employee Rights in a Call For Work System

For employment, the employer utilizes a frame for working hours, which can be four months at maximum. Call for work is then distinct from by-work, which is also based on the occasional nature of work, in that it is not as strict in the length of work, as well as the fact that employees are required to be contacted about their availability three days in advance.

Commitments concerning employment and availability

The employer is only able to call on the employee when their work is truly necessary, and even then they may only be employed for at most six hours. Employees must be contacted three days in advance, in the regular manner.

By signing the work contract the employee enters into a relationship of employment, and at the same time the legal relationship of social security is also established *ex lege*. What significantly differentiates this from other, known forms of part-time work other than what has already been mentioned is the obligatory frame of work time, as well as the lack of minimal requirements on employment. However, actual work is only occasional, which might, in extreme cases mean that the employee works six hours every day, but it might mean the opposite, which would be no work. In this case wages and payment obligations are naturally a responsibility of the employer, as per the established working time frame.

An important difference compared to by-work is that a relationship concerning employment and social security is independent of work, while a similarity is the lack of obligations concerning work on part of the employer, since it is based on its occasional nature. For the employee, however, availability is an obligation, since they are entered in a relationship of employment with their employer. Employers are, under certain circumstances are exempt from obligations of employment, but not other expenses of employment, which creates a basic protection for the employee.

Probation: general regulations apply in this form of employment, however if the parties did not specify a probation period in the work contract, it may not be altered for this purpose at a later date.

¹³ **Act I of 2012 on the Labor Code Section 193** (1) Part-time workers employed under employment contract in jobs for up to six hours a day shall work at times deemed necessary to best accommodate the function of their jobs. In this case the duration of working time banking may not exceed four months. (2) The employer shall inform the employee of the time of working at least three days in advance.

Paid leave and compensatory leave: employees are entitled to paid and compensatory leave as it is stated in the regulations of the Labor Code, taking into account the regulations concerning the scheduling of the work time frame.

Sick leave: the issue is similar to the question of paid leave, in other words the employee is entitled to the leave.

Severance pay: a longer term of employment may be beneficial to an employee engaged in artistic activities, who supplement their artistic revenue in this way. The amount paid out by severance pay is calculated using the general rulings as well.

Frame of working time: fundamentally, employers only call in employees – with regard to the availability limitations – when their workforce is required. If they are overworked, they are entitled to wages as they are described in the general rulings, but if they are not working as per the working time frame, their employers are still required to pay their wages as per the established work frame.

Advocacy: since employment denotes a working relationship, employees are naturally entered into a system of advocacy. However, the presence of the employee at their place of employment is occasional, so in practice they have difficulty accessing the system. The contents of the collective agreement signed at the organization also mean rights and responsibilities for them.

SWOT Analysis

The goal of a SWOT analysis is to compile what is perceived as a strong point with regard to legislative ruling, which in turn leads to uncovering the weak points of the legislation, as well as enumerating the opportunities and threats present during practice.

The Employee Side:

Strengths:

Gains a basic income

Not committed

Time limit (6 hours a day max.)

Transient nature

Relative independence

Employment

Weaknesses:

Low level of income

Uncertain working hours

Difficulty in planning ahead

Transient nature

Low level of communication

Social security benefits based on wages

Weak career options

Opportunities:

Access into the system

Gaining experience

Open to other activities

(art, farm at home)

Not concerned with redundancies

Threats:

Not called in

Uncertainty, waiting

Atrophying relationships

Not eligible for other benefits

not even in case of low income

Summary of the SWOT Analysis and the Points of Induction

Strengths on the Employee Side:

It can be a solution for a transitory period where nobody has work within a family, and only one member is entitled to income replacement benefits, so that the other, not entitled one might gain income.

In a more ideal situation, the employee has a different source of income for their livelihood, and only use this for a relationship of employment as well as gaining additional income.

Not being committed can be useful in adapting to other, time-intensive tasks.

Weaknesses of the Employee Side:

When utilizing the maximum of four months as a frame of working time, the employee gains an overall picture of their expected income. Their actual income may be even lower than minimum wages. The employee has difficulty establishing a personal connection with their colleagues and leaders, which makes representing their interests difficult. While a relationship of employment and a legal relationship for social security is established, it is contingent on work.

Little chance is present for building a career, because human resources do not account for the employee based on their status.

Opportunities of the Employee Side:

For employees who have been outside of the realm of employment for a longer time this presents a possibility of return into it since it is a convenient way of handling a possible shortage of personnel.

After job cuts, an employee working in this way might achieve more income after having taken on the remaining tasks of a former full time employee.

For those who are looking for a position right after finishing training this makes gaining experience possible.

Threats to the Labor Market Position of the Employee:

The largest threat to employees is not getting called in for a period of time, because less goal-oriented and dynamic personalities will not search for other options during the wait as waiting for the call and hoping drains them of their energy.

It could pose a problem that while they have a relationship of employment, their employment has no minimum so their income is very low. For those unable to net another, stable source of income, their relationships might atrophy due to the lack of income, communication and impulses. An employee might be the first to drop out of the system if their employers face difficulties.

Strengths of the Employer Side:

Fixed employer costs are easy to calculate precisely down to service units and units of production, spending is focused and fixed-cost spending is reduced. In accordance with this, wages per unit of income and related costs of public duty are reduced.

Weaknesses of the Employer Side:

The question of legal uncertainty might come up, due to uncertainties still being present in the application of the law.

A lack of designated place for filing a report in the tax system is another practical issue, and so there is no clear indication that the relationship of employment was created through call for work. Employee loyalty may be low due to the less stable nature of the employee-employer relationship.

Opportunities of the Employer Side:

It is possible to create a very flexible human resource system with this solution, if adequate personal cooperation is achieved. If the employer is able to save on costs in this way, the additional profit may be returned into expanding the venture, which could in turn create more jobs.

Threats to the Employer Side:

The transient nature of employment results in a large degree of turnover, which complicates administrative duties. Since the position of the employee is not stable, their performance may be varied as well. Those in a relationship of employment with the company increase the statistical head count as well, adding to the additional related costs even if the employees do not perform many tasks.

Points of Induction: The solution reflecting the aim of the Labor Code is one where both parties achieve autonomy:

- A secure background is a given on the part of the employee, but due to the lack of a set minimal level of employment, it is entirely based on agreement and so lacks any sort of built-in guarantee
- Due to the occasional nature of work, the degree to which planning is possible is low on part of the employer, and the development of employment traits is shaped by many external forces.

The Realm of issues of Induction Points, Types of Threats:

- On the part of the employee, the decrease in activity (complacency) might deteriorate their position on the Labor Market, the factor of personal responsibility appears
- On the part of employers, the hectic nature of work is due to the status of the market, which can be resolved by work organization and flexibility of contracts.

Summary

In conclusion, call for work is situated among atypical forms of employment, as a special case of part-time work where instead of being determined by work hours, it is much more closely connected to the occasional nature of work. Because of this, a truly modern idea is born that fits trends described in the Wim-Kok report¹⁴ and is aimed at improving the adaptability of employers and employees alike by way of more efficient realization of reforms with better direction.

In practice, this means that legislative directions present in Hungarian lawmaking are in line with European political directives to stimulate the economy with flexible labor Code regulations that fit the actual needs of the labor Market and aid the growing of employment and contribute to the stabilization of social security in this way.

¹⁴ More Jobs in Europe! (the Wim Kok-report) http://einclusion.hu/wp-content/uploads/2007/09/wimkok_jelentes.pdf Time of download: 2015. 04.20.

It is impossible when discussing this form of work to avoid discussing the term flexicurity, which combines flexibility and security, and creates a harmony through facilitating a complex solution that necessarily requires the cooperation of professionals from both fields. To this end, it will be primarily required to smooth out the regulations concerning employment, the continuous updating of tools utilized by employment policy with regards to unemployment, and to pay attention to adjusting the teaching and training system to the needs of the Labor market, since it is inconceivable to grow employment without them.