Austria

# Working time flexibility

| | |
|---|---|
| **Phase** | Public Employment Service Act (AMSG); Working Times Act (AZG) |
| **Native name** | Arbeitsmarktservicegesetz (AMSG); Arbeitszeitgesetz (AZG) |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

37b (AMSG); 4 and 9 (AZG)

## Description

Working time flexibility

In Austria, standard maximum working time is limited to 12 hours per day and 60 hours per week (Arbeitszeitgesetz, AZG §9 (1)). Moreover, a 48-hour per week average needs to be maintained over a 17-week reference period. However, collective agreements can extend the reference period up to 26, and in special cases up to 52 weeks. Derogations from the statutory standard working time are only allowed within certain limits clearly set out by the AZG, and need to be settled in collective or works agreements.

However, there are some cases where an extension of the standard working time (8h/day; 40h/week) is possible without further agreements by social partners (see list of regulating instruments from the Austrian Labour Inspectorate):

1. If the standard working time is distributed differently during the week to gain more free-time (for instance before the weekend) the daily working time can be extended up to 9 hours.
2. Working hours for sales personnel can be extended to 44 hours within a period of four weeks as long as on average 40 hours per week and 9 hours per day are not exceeded.

3. In flexi-time arrangements a maximum of 10 hours per day are allowed. An extension to 12 hours may be permitted if a time credit system is in place.
4. To gain more free time before public holidays working time can be dispensed over a period of 13 weeks to a maximum of 10 hours per day.

Collective agreements can generally allow fluctuating standard working times (AZG § 4(6)). The underpinning idea is that companies should have more flexibility to deal with fluctuations in production. Collective agreements define the overall framework and leeway for so-called 'bandwith models' (Bandbreitenmodelle). At company level a work agreement is required to establish this flexi-time model, which allows companies to extend working time in times of high work demand and reduce it at other times, as long as on average standard working time is maintained over the reference period (maximum is set to one year). However, standard maximum working time is limited to 10 hours per day and 48 hours per week (the extension of up to 50 hours per week is only permissible for a reference period of 8 weeks) (AZG § 4(6)). Moreover additional conditions as set out in the collective or work agreements must be met (for example, notification of changes within a certain period of time and rules on how time credits are to be deducted).

Short-time working

Short-time working in Austria refers to the temporary reduction of working hours based on a social partner agreement. Employees receive short-time working support (Kurzarbeitsunterstützung) from their employer for the non-worked hours in order to bring their income closer to their normal wage level. In order to do so, the employer receives a short-time working subsidy (Kurzarbeitsbeihilfe) from the Public Employment Service (AMS). As of 2018, short-time working subsidies are limited to six months. If the overall situation of the company has not changed, the eligibility time can be extended to a maximum of 24 months (in events of special circumstances also beyond). Employers must report the numbers of non-worked hours per short-time worker and the amount paid to the AMS on a monthly basis. They must also confirm that no short-time workers have been dismissed.

The short-time working subsidy amounts to the level of unemployment benefits (including social security contributions) for the non-worked hours (about 55% of the net wage); in this way, lump sums per non-worked hours are determined. This lump sum is based on the normal (legal or collectively agreed) working time, the worker's monthly gross wage (including pro rata holiday and Christmas remuneration) and the number of children the employee has to care for. Increased rates are provided if training is conducted while employees are not working.

The social security contributions (and benefits) paid during short-time working are based on the previous full-time wage before short-time working commenced. Periods of short-time working are considered as normal/full-time working time regarding qualification periods for unemployment benefits. Furthermore, if unemployment occurs immediately after short-time working, unemployment benefits are calculated on the basis of the previous full-time wage (rather than the reduced income during short-time working). In most cases, however, the social partner agreement states that companies must not make employees redundant for a stated period following short-time working; this ranges from one to four months. Companies must apply for short-time working support six weeks before they initiate the measure (or four weeks before extending it). They must also take part in a consultancy session (involving the works council) with the aim of identifying potential alternatives to short-time working.

Coverage relates to temporary economic difficulties, resulting from a drop in production/supplies or sales/demand (which are not related to seasonal changes) or caused by natural catastrophes, such as avalanches or floods, but also other disasters. Before introducing short-time working, other options need to be exhausted, such as the reduction of overtime, vacation entitlements and working time accounts.

Companies are required to establish an agreement with social partners which addresses the terms and conditions of the short-time working arrangement, more specifically, the section of the company that has been affected, the duration of the short-time working, the maintenance of the number of employees, the extent of short-time working payments, the level of decreased working time and educational measures (if applicable).

All employers are eligible except those in the public sector and political parties. Temporary work agencies can only avail of this support if they can prove that workers sent to specific companies cannot be redeployed in other companies and that the company in which the workers have been employed has registered its core staff for short-time working with the Public Employment Service (AMS). In such cases, additional requirements have to be met (for example, special agreements among social partners).

All employees are eligible for subsidies except for CEOs, board members, apprentices, and employees who work such a low number of hours that they are not obliged to make social security contributions (marginal employees, 'geringfügig Beschäftigte').

current modifications

The special arrangements for short-time working due to the Corona pandemic expired at the end of September 2023. As of October 1st, 2023 the original model applies again. However, a provision on short-time work allowances for companies was incorporated into permanent law. From October 2023, the federal government covers the employer's

increased expenses for social security contributions from the fourth month, rather than as of the fifth month, as was previously the case.

As of October 1, an 88 percent gross replacement rate will be used to calculate short-time benefits, resulting in an average 90 percent net replacement rate. The end result is that workers will receive about 90 percent of their last net income, just as they did with Corona short-time work. There are practical reasons for the change in calculation, because payroll accounting in Austria is also handled with gross values.

Whether short-time work can be claimed will continue to be strictly checked by the trade unions. Working hours can be reduced by between ten percent and a maximum of 90 percent in the model from October 1, 2023. A prior consultation and a separate social partner agreement (SPV) are mandatory for every company. A detailed economic justification should already be available as part of the consultation process - the relevant templates are provided by the Chamber of Commerce.

COVID-19 response

Between March 2020 and March 2021, a special 'Corona short-time working scheme' is operational. The reduced working hours must on average be between 10% and 90% of the collectively agreed standard working hours, but can also temporarily be zero.

The employer is obliged to maintain the employment level of the starting point of the short-time working period. Dismissals for economic reasons are possible on approval of the Public Employment Service, trade union and works council. Dismissals for personal reasons require the recruitment of another worker to maintain the total employment numbers.

From October 2020 to March 2021, the working time has to be between 30-80%. Temporarily, during the renewed lockdown starting early November 2020, those companies directly affected by the governmental decree may refer to working time of less than 30%, up to zero. The subsidy can be granted for 3 months, with a possible extension of another 3 months upon consulation of social partners.

Salaries of apprentices will be subsidised to 100% by the public employment service, monthly gross salaries below € 1,700 are subsidised by 90%  of the net wage, monthly gross salaries between €1,700-2,684 by 85% and those between €2,685-5,369 by 80%. The employer pays for the actually realised working hours, AMS covers the difference.

The employer's share of social security contributions is also covered by the state. Employees can be put on short-time working for up to three months (with the possibility of an extension for another three months). The employment level must be maintained in the

company during the scheme, and for one month beyond. Applications for short-time working allowances are handled with 48 hours.

Since October 2020, if the employer offers training during short-time working, employees are obliged to participate. AMS supports 60% of the training costs.

Working parents

In March 2020, an amendment to the employment contract law (Arbeitsvertragsrechts-Anpassungsgesetz, AVRAG) provided for a special care time of up to three weeks for working parents with children up to the age of 14 and children with disabilities (without age limit). This was later extended to workers with care responsibilities for older people. The employer needs to consent to this leave. The special care leave is not to be offset against regular holiday entitlements or claims for time off or flexitime credits. The costs for the leave are shared between the state (covering one third) and the employer (covering two thirds). The special leave is only possible for workers with a monthly wage up to € 5,370 whose work is not essential for business continuity and who do not have other care opportunities.

Leave

In March 2020, the COVID-19 measure law (VO 96/2020) stipulated that while normally agreement between the employer and employee is required as regards the use of holidays, the employer can now unilaterally order leave or time off if restrictions are set to enter premises and services cannot be provided. The employer can order the consumption of leave entitlements from previous years in full, from current leave year to a maximum of two weeks, and in total a maximum of eight weeks.

Entrepreneurs

In the framework of the COVID-19 crisis fund ('Nothilfefonds'), between April and December 2020, entrepreneurs fulfilling the above criteria can claim a subsidy for their own monthly salary up to a maximim of €2,000. Companies fulfilling the following criteria are eligible to a subsidy for fixed costs, including the wage of the entrepreneur:

- management or permanent establishment in Austria
- fixed costs arising from the operating activities in Austria
- economically healthy before the crisis
- loss of turnover of at least 50% caused by the crisis (compared to the same month of the last year or a third of the respective quarter of the last year)

- all reasonable measures to achieve sales to reduce fixed costs and to maintain jobs in Austria taken

## Commentary

In 2016, public support was extended to 2,400 workers (14% female) - compared with 4,399 people in 2015 - resulting in public subsidies of over €4.6 million. In 2016, the average consumption period of short-time working subsidies was 92 days (Sozialministerium, 2018).

The combination of subsidies with training increased the attractiveness of the scheme. It remains a cheaper option for the state than unemployment. The employer avoids firing-and rehiring costs and is given some time to improve company strategies. The wage decrease is lower than the proportion of working hours lost. Moreover, employees avoid unemployment and they also maintain social security levels. The scheme is very targeted but is available to many employees. It also represents a comparatively fast response to crisis situations.

The Austrian Federal Economic Chamber (WKO) notes that short-time working is mostly applied for by production companies. It also concludes that both service companies and smaller enterprises find it difficult to access this measure, due to the complex preconditions and administrative burden involved. Issues are also present in terms of its administration and calculation of pay; the latter requires a software programme as soon as a certain number of employees are affected. The necessity of involving different stakeholders can also pose a barrier for some companies. Not all associated costs, for employers and employees, are covered by the subsidies; dismissal protection can be a significant burden for the employers. Finally, it can be difficult to arrange training during short-time working as meaningful training might not be available during the short-time working period and employees might prefer leisure time to training.

## Additional metadata

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|---|---|
| **Cost covered by** | Employer National government |
| **Involved actors other than national government** | Employer organisation Public employment service Trade union Works council |
| **Involvement (others)** | None |

| | |
|---|---|
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Austria: Working time flexibility, Restructuring legislation database, Dublin

Belgium

# Working time flexibility

| | |
|---|---|
| **Phase** | Labour Act of 29 March 2012 containing various provisions relating to work; Law-decree of 28 December 1944 on social security for employees, completed with royal decrees of 26 March 2003, 29 March 2006 and 1 September 2006; Law of 22 January 1985 on social provisions |
| **Native name** | Loi du 29 mars 2012 portant des dispositions diverses relatives au travail/Wet 29 maart 2012 houdende diverse bepalingen; Arrêté-loi du 28 décembre 1944 concernant la sécurité sociale des travailleurs complété par les arrêtés royaux du 26 mars 2003, 29 mars 2006 and 1 septembre 2006/Besluitwet van 28 december 1944 betreffende de maatschappelijke zekerheid der arbeiders aangevuld met Koninklijk besluit van 26 maart 2003, 29 maart 2006 en 1 september 2006; Loi de redressement contenant des dispositions sociales du 22 janvier 1985/Herstelwet houdende sociale bepalingen van 22 januari 1985 |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Labour Act of 29 March 2012: Articles 20, 22, 23, 24, 25, 26, 27 and 292; Law-decree of 28 December 1944 (completed with Royal decrees of 26 March 2003, 29 March 2006, and 1 September 2006), whole law; Law of 22 January 1985: 99-107bis  30 JULI 2022. - Wet houdende diverse bepalingen inzake tijdelijke werkloosheid (1)

## Description

The laws in question include a series of provisions regarding working-time flexibility, as detailed below.

The daily eight-hour working time limit can be exceeded in response to an extraordinary workload

An employee may work a maximum of 11 hours per day and 50 hours per week. Overtime work entitles the worker to be paid at least 50% extra wage during weekdays and 100% on Sundays and public holidays. A distinction has to be made between punctual and structural overtime schemes:

- The aim of the punctual overtime schemes is to provide more flexible opportunities for companies to respond to the market needs. In this case, the longer working days are allowed within a certain period, which has to be agreed upon by unions at the company level or, in some cases, defined by a royal decree. At the end of this period, the overtime work entitles to extra pay and/or to paid leaves.
- The structural overtime schemes aim to define a way to manage human resources. These schemes are regulated by royal decrees and/or sectoral collective agreements and/or company's agreements. The agreement (or the law) usually defines a period of reference - such as a quarter or a year - during which the overtime work has to be counterbalanced by paid leaves and/or financial compensation in order to fit with the regulations on the average maximum working time limits per week.

Temporary unemployment and reduction in working time in case of economic hardship

The law-decree of 28 December 1944 on social security of workers (temporary unemployment), completed with legal decrees of 3 May 1999, 26 March 2003, 29 March 2006 and 1 September 2006, suggests that employers may suspend some workers from working, either partially or totally, in case of economic hardship.

The employer may establish a system of temporary unemployment for workers by totally suspending the execution of the employment contract or by establishing a system of short-time working. The scheme is applicable to a certain number of employees and only after exhausting their recuperation days.

A total (during all days of the week) suspension of employment contracts is possible for a period of four weeks at a time, after the period of 4 weeks it is obligated to have at least one working week before starting a new period of suspension (either full or partial).

Partial suspension is possible as well, in the form of either a small suspension or large suspension. With a small suspension the employee is obliged to work either at least 3 days per week or at least one week every two weeks. With large suspension he/she works less than 3 days a week or less than 1 week every two weeks. The maximum duration of a short suspension is 12 months (the end date has to be defined clearly), for large suspension it is 3 months.

Short-time working is available in the private sector and the semi-public sector (the latter referring to public enterprises with an economic aspect, such as the rail service and the postal service). It applies to blue-collar workers, to employees during an economic downturn, and to those whose employability has been impacted by bad weather or an unforeseen event such as a technical accident. The measure must involve a group of workers, such as all those from one unit within a company or all blue-collar workers, and it also has to be temporary.

The decrease in working time must be formally established by a collective agreement at the sector or company level or in the company's internal rules, thus requiring the agreement of the trade unions.

The income is assessed based on a worker's last monthly wage and cannot exceed a maximum of €2,700.75 per month (as of 2019). Since January 2016, workers receive 65% of their salary regardless of their family situation.

The law decree of 28 December 1944 also extended the measure to temporary workers and to those on a fixed-term contract. In cases of reduced working time, a variety of regimes or durations are possible.

A maximum period of three months is placed on cases where the employer has reduced working time to less than three days per week or, on a fortnightly schedule, to one week off and more than two days worked the following week. By royal decree, a maximum period of four weeks is extended to cases where work has been reduced to less than two days a week without specific derogation.

These cases are generally dependent on the existence of a collective agreement. The employees remain under contract with their employer during periods of temporary unemployment, even though the operation of the contract is suspended, and they retain all rights related to the contract. An additional right is conceded to workers on temporary unemployment, who are exempt from the requirement to give their employer notice of their intention to leave in order to work elsewhere.

Workers and employees are not protected from dismissal during temporary unemployment, but the period of dismissal notice may only begin after the temporary unemployment period has elapsed. Workers' long-term entitlements to pension, social security or health benefits are not negatively affected in situations where they are put on temporary unemployment. Temporary unemployment days are in the same category as days taken for sick leave – although not worked, they count towards the calculation of all benefits. This is financed by the social security budget of the state. The employer must notify the local branch of the National Employment Office (Office National de Sécurité sociale – ONEM/Rijksdienst voor Arbeidsvoorziening – RVA), the federal agency

responsible for the payment of unemployment benefits, as well as the workers affected and the workers' representatives at least one week in advance.

Temporary unemployment in the COVID-19 crisis

As a response to the COVID-19 crisis, between 13 March and 30 June 2020, temporary unemployment due to COVID-19 is considered as temporary unemployment due to force majeure, making the support also available to white-collar workers. It has also been extended to interim workers (among other non-standard contracts) and to employees of Belgium-based companies stranded abroad or placed in quarantine after returning from an infected region.

For the duration of the restrictive measures, the employer is no longer obliged to notify the local branch of the National Employment Office, and the form to submit the application for benefits to the designated payment institution has been simplified.

Between 1 Febuary and 30 June 2020, employees on partial unemployment receive a benefit amounting to 70% of their average monthly salary (capped at € 2,754.76). Employees temporarily unemployed due to force majeure receive a supplement of €5.63 per day on top of the unemployment benefit. A withholding tax on professional income of 26.75% is deducted from the benefit. Workers receive an advance payment of €1,450 while their dossier is being processed.

On 10 June 2021 it was announced that the temporary unemployment system with the simplified procedure because of the Covid-19 crisis has been extended up and until 30 September 2021. It is possible that the system will be extended after that as well, this depends however on the further evolution of the economic and general health situation.

The flexible temporary unemployment in light of Covid-19, introduced at the start of the coronavirus, was extended one last time by the government in the second half of 2022 in the context of the Russian-Ukrainian crisis. This time, the government decided not to extend it again and to reapply the existing systems: temporary unemployment for economic reasons and temporary unemployment due to "classic" force majeure.

Time credit model

Another approach used to reduce working time is the time credit model, based on the legal framework of the law of 22 January 1985. Later, this framework was complemented by several collective agreements (77, 77bis and 103) in order to define what a time credit is. According to this scheme, the employees can take a complete interruption, a half time reduction or a one-fifth reduction of their working time. The complete interruption and the half time reduction apply for one year, and are extendible up to five years by collective

agreement. Women aged up to 50 are the main users of the time credit entitlements and the reduction of the working hours being the most used by the group. The one-fifth reduction applies for five years in general and without any restriction for employees aged 50 and over. The one-fifth reduction of working hours for employees aged 50 and over, however, is also commonly used by male workers. Given the unlimited duration of the entitlement for employees aged 50 and over, this particular system can be seen as a part-time early retirement scheme aiming to alleviate the end of a career. This scheme is usually in line with a proportional wage cut. If requirements are met (age, seniority, etc.), employees may receive an 'interruption allowance' provided by the National Employment Office. In this case, by reducing working time without any particular effects on total income, public authorities expect to extend the working lives.

This time credit also foresees that 5% of the total number of workers in a company have the possibility to reduce their working times by one fifth of the total. The quota of 5% of simultaneous absence within the firm is determined by the National Employment Office, but only for companies employing more than 10 workers. The main goal of the quota is to ensure the continuity of work. However, this measure concerns every worker in the company and, therefore, this is not specific to older workers. Nevertheless, it seems that many companies have informal agreements with the older workers who want to be in this system, even in cases where this would imply that the quota of 5% is exceeded.

## Commentary

Temporary unemployment is often used by SMEs in Belgium. Funded by the national government, this instrument is established and well-known. It has a strong level of legitimacy among the social partners and the government. It offers employers both certainty and flexibility in relation to staffing levels. The scheme leaves the employees free to choose whether or not to adhere to full or partial temporary unemployment in the case of partial temporary unemployment. It enables companies to retain their human capital (and, to a lesser extent, to provide training). In addition, employees' income is cushioned during periods of temporary unemployment and access to long-term benefits and entitlements is not negatively affected.

An important downside to the measure is the fact that it transfers the burden of the cost of flexibility from the company level to the societal level, with public authorities paying a part of the unemployment benefit. The system can be hijacked by employers, often with the workers’ approval, and turned into an illicit means of avoiding taxes. In such cases, workers on temporary unemployment continue to work and are illegally paid by the company to do so. In addition, the two-week waiting period for approval of temporary unemployment requests from employers poses problems in terms of work planning and this leads to employers making precautionary applications for temporary unemployment.

The time credit model limits the impact of a working time reduction by providing income support and enabling employees to keep their social security level. The time credit is also useful in keeping older workers in the labour market.

Uptake of time credit model

| Year | Total |
|---|---|
| **2010** | **132,319** |
| **2011** | **135,786** |
| **2012** | **136,391** |
| **2013** | **132,728** |
| **2014** | **134,581** |
| **2017** | **117,922** |
| **2018** | **111,399** |
| **2019** | **107,392** |
| **2020** | **95,000** |
| **2021** | **90,938** |
| **2022** | **89.087** |

Source: Federal unemployment services (RVA/ONEM)

## Additional metadata

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|---|---|
| **Cost covered by** | Employer National government |
| **Involved actors other than national government** | Employer organisation Public employment service Trade union Works council Other |

| | |
|---|---|
| **Involvement (others)** | ONEM/RVA, the federal agency responsible for the payment of unemployment benefits |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Belgium: Working time flexibility, Restructuring legislation database, Dublin

Bulgaria

# Working time flexibility

| | |
|---|---|
| **Phase** | Labour Code |
| **Native name** | Кодекс на труда |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Articles 107(l), 136(a), 138(a), 139

## Description

According to the Labour Code, a reference working week consists of five days and 40 hours of work. For economic reasons, companies can extend working time by written order and in this case are obliged to consult with representatives of trade unions and representatives of employees and to inform the labour inspectorate in advance.

The extension of working time could not be more than 10 hours per day, and for employees with reduced working time up to 1 hour more per day. In such cases, the working week duration cannot be more than 48 hours; for employees with reduced working time 40 hours.

The employer is obliged to record extended, reduced and compensated working time in a special record book. The extension of the working time can take place for up to 60 working days in one calendar year, but no more than 20 working days in a row.

In cases of working time extension, the employer is obliged to compensate the employee with the respective reduction of the working time within 4 months for each extended working hour. In case the employer does not compensate the extension within the listed period, the employee has the right to define the time that will compensate the extension of working hours by notifying the employer in writing at least two weeks in advance. In case of termination of the employment contract prior to compensation, the difference to

the normal working day shall be paid as overtime.

## Commentary

The Labour Code regulates various options for working time flexibility such as: * prolonged working hours, * unregulated working hours, * part-time work, * accumulated calculation of working time, * availability out of the enterprise's territory, * working time with variable boundaries.

Flexible working hours are also applicable out of the enterprises' premises - when the employee is not present at the working place but could perform the working functions if necessary. Working time with variable boundaries can only be introduced by the employer. In this case, a working day can be divided into two or three parts. The number of interruptions, excluding lunch breaks, may not be more than two per working day and the duration of each break may not be less than one hour.

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Not available |
| **Involved actors other than national government** | Trade union Other |
| **Involvement (others)** | Labour inspectorate |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Bulgaria: Working time flexibility, Restructuring legislation database, Dublin

Croatia

# Working time flexibility

| | |
|---|---|
| **Phase** | Labour Act 93/2014, 127/17, 98/19, 151/22, 64/23 |
| **Native name** | Zakon o Radu 93/2014, 127/17, 98/19, 151/22, 64/23 |
| **Type** | Working time flexibility |
| **Added to database** | 19 July 2015 |
| **Access online** | Click here to access online |

## Article

Articles 60, 60a, 61 (1), 65 (3), 66 (1, 5, 6, 7, 8, 9, 10), 67 (1, 3, 4, 5)

## Description

Overtime, organization and rescheduling of working time

Article 60 establishes that a normal working week consists of 40 hours, which may be evenly or unevenly distributed. In the latter case, working time can be either longer or shorter than 8 hours per day. The arrangements are defined by individual employment contracts, agreements between the works council and the employer, collective bargaining and laws.

The working hours schedule is defined by additional Article 60.a (1) The working time schedule is the schedule of the duration of the worker's work, which determines the days and hours when work begins and ends on those days. (2) The working time schedule may be equal or unequal, depending on whether the duration of work is equally or unequally distributed over days, weeks or months. (3) The working time schedule is determined by a regulation, a collective agreement, an agreement concluded between the works council and the employer, a work regulation or a work contract. (4) If the working time schedule is not determined in the manner referred to in paragraph 3 of this article, the employer decides on the working time schedule by a written decision. (5) The employer must, at least one week in advance, inform the worker about his schedule or a change in his working time schedule, which must contain information in accordance with paragraphs 1 and 2 of this article. (6) As an exception to paragraph 5 of this article, when, in the event of

an urgent need for an employee to work, it is necessary to change the working time schedule, the employer is obliged to inform the employee about such a working time schedule or about its change within a reasonable time, before the start of the work. . (7) Urgent need, in the sense of this Act, means those circumstances which the employer could not foresee or avoid, and which make a change in the worker's working time schedule necessary. (8) During the use of the right to vacations and leave prescribed by the provisions of this Act, the employee and the employer must consider the balance between private and business life and the principle of unavailability in professional communication, unless it is an urgent need, i.e. when, due to the nature of the work, communication with it cannot not interfere with the worker or when the collective agreement or employment contract has agreed otherwise.

Articles 65 and 66 limits overtime work on a weekly and annual basis. If a worker works overtime, the total duration of the worker's work must not exceed 50 hours per week. As the full-time weekly working time in Croatia is 40 hours (daily breaks are included), a worker with a contracted full-time work can work a maximum of 10 hours overtime in a week, while a worker with a contracted part-time work of 20 hours per week is able to work also 50 hours a week, but 20 hours will be his or her regular working hours and 30 hours will be overtime. Exceptions to the maximum 50-hour working week are prescribed only in the case of unequal distribution and redistribution of working hours, and only with the fulfilment of certain conditions prescribed in Art. 66, paragraphs 7 to 10 and 67, paragraph 5. At the annual level, the overtime work of an individual worker may not last longer than 180 hours, unless agreed in a collective agreement, in which case it may not last longer than 250 hours per year. The Labor Act does not provide for any exceptions to this restriction, which means that no worker may work longer than stated.

## Commentary

Legislative regulation on working time in Croatia faces serious implementation problems due to rigid employment legislation and bureaucratic obligations for employers and high fines. Furthermore, the wording is sometimes unclear and complicated, which causes difficulty in complying with legal obligations. The amendments introduce a few novelties in relation to flexibility for employers while including derogations only by collective agreements. Trade union confederations and some NOGs have criticized the working time provisions from a gender perspective for not taking into account the fact that in Croatia the majority of household responsibilities (including family care) still fall on women.

Until 2017, companies could take advantage of a measure called non-working Fridays (for instance, Law on the Support for Preservation of Jobs 93/2014). If employers had been able to prove that they were facing financial difficulties, the public employment service would have paid the difference between a full working week's wage and a four-day working

week's one for employees. The difference could not overcome the minimum net salary, employers were still obliged to pay all social security contributions for a full working week and could use the measure only temporarily (up to six months). According to the public employment service's annual reports, job preservation subsidies amounted to HRK 20,139 (€2,700) in 2009 and HRK 26,409 (€3,515) in 2010. The law provided monetary support to 703 employees in 2012 and to 1,310 employees in 2013. No expenditures were accounted for this measure between 2014 and 2016.

The tool was intended for companies in financial difficulties to retain the workforce which was prepared to continue working full-time when the need occurred. Ultimately, the law aimed at preventing dismissals, as well as long-term damage for businesses.
The instrument was abolished in 2017 because it was claimed that it did not yield desired outcomes. Elements of weakness pointed to cumbersome procedures for documentation, to potential risks and to insufficient funds available to employers. Moreover, monitoring mechanisms were not able to detect misuses of the policy as a cost-saving opportunity.

According to the Labour Act (OG 93/14, 127/17, 98/19, 151/22, 64/23), Article 60, working time in Croatia is any period during which the worker is obliged to be at work, at the employer's disposal (on stand-by) to carry out his duties in accordance with the employer's instructions, at his working place or another place determined by the employer. The period during which the worker is available for the employer's request for performance of works, should a need arise, shall not be regarded as working time, where the worker is neither located at his working place nor at another place determined by the employer. The availability period and remuneration shall be regulated by the employment contract or collective agreement. The period during which the worker is at work upon the employer's request shall be deemed working time, notwithstanding whether the works are performed at the place determined by the employer or the place selected by the worker. According to the Labour Act, if a worker is staying at work and not working but waiting to carry out work, he or she is on duty (dezurstvo), but it is regular working time. If a worker is not working and not at work but at home or near work and comes to work just in case something comes up, that is standby (pripravnost), and that is not considered working time. The difference is that standby does not count in working hours and restrictions unless such an employee is activated and is obliged to come to work.

## Additional metadata

**Cost covered by** None

| | |
|---|---|
| **Involved actors other than national government** | National government |
| **Involvement (others)** | None |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Croatia: Working time flexibility, Restructuring legislation database, Dublin

Cyprus

# Working time flexibility

| | |
|---|---|
| **Phase** | The Leave (Paternity, Parental, Caring, Force Majeure) and Flexible Work Arrangements for Work-Life Balance Law of 2022 |
| **Native name** | Ο περί Αδειών (Πατρότητας, Γονική, Φροντίδας, Ανωτέρας Βίας) και Ευέλικτων Ρυθμίσεων Εργασίας για την Ισορροπία μεταξύ Επαγγελματικής και Ιδιωτικής Ζωής Νόμος του 2022 (216(I)/2022) |
| **Type** | Working time flexibility |
| **Added to database** | 20 October 2023 |
| **Access online** | Click here to access online |

## Article

Articles 3, 4, 5, 8, 9, 11, 15, 16, 17, 19, 20, 21, 23, 24 of the Leave (Paternity, Parental, Caring, Force Majeure) and Flexible Work Arrangements for Work-Life Balance Law of 2022.

## Description

The Law aims to balance/reconcile professional and family life for working parents or carers, through the establishment of individual rights, based on the EU Directive 2019/1158 on Work- Life Balance. Specifically, the Law granted or expanded the rights to:

- paternity leave, parental leave, carers' leave and absence from work for reasons of force majeure·
- flexible working arrangements for working parents or carers.

According to article 8 of the Law, a working parent, who has completed six (6) months of continuous employment with the same employer, is entitled to receive parental leave. The maximum duration of parental leave is eighteen (18) weeks for each child, while in the case of a widowed parent or a single parent, either due to removal of parental care from the

other parent or non-recognition of the child by him, the duration of parental leave extends to twenty-three (23) weeks (article 8(3) of the Law).

It is noted that the right to receive parental leave is an individual and non-transferable right for each parent, with the exception of the possibility of transferring nine (9) weeks from the remainder of one parent's leave to the remainder of the other parent's leave.

## Commentary

Social partners identified numerous gaps and weaknesses regarding the law. A serious flaw they recognized is the fact that the law provides for five days of unpaid leave for care annually, and seven days of unpaid absence annually, for reasons of force majeure, connected with urgent family reasons. Also, the parental leave allowance does not cover the self-employed - the Ministry of Labor has pledged to resolve the issue by the first half of 2023, but no such development came to be up until the point of writing (October 2023). Another alleged flaw, again regarding the parental leave, is the law's provision allowing the employer to decide whether to approve or reject parental leave and whether to grant flexible working arrangements for care reasons.

It should also be noted that the law belatedly fulfilled the obligation of the Republic of Cyprus to harmonize with Directive 2019/1158, which should have happened by August 2022. Additionally, until June 2023 payments regarding parental leave could not be made because the government had not prepared a relevant mechanism in time, with the result that those who applied under the new legislation had to wait for the allowance.

## Additional metadata

| | |
|---|---|
| **Cost covered by** | National government |
| **Involved actors other than national government** | National government |
| **Involvement (others)** | None |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2023), Cyprus: Working time flexibility, Restructuring legislation database, Dublin

Czechia

# Working time flexibility

| | |
|---|---|
| **Phase** | Employment Act (Law No. 435/2004 Coll.), Labour Code (Law No. 262/2006 Coll.) |
| **Native name** | Zákon o zaměstnanosti, zákon č. 435/2004 Sb., Zákoník práce, zákon č. 262/2006 Sb. |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

115, 120 a) too 120 f) of the Employment Act, 209 of the Labour Code (paragraph 1)

## Description

The amendment to the Act no. 435/2004 Coll., on Employment, in force since 1 October 2015, aims at helping employers to retain existing employees in the event of adverse economic developments.

This includes situations in which the employer is unable to provide an employee with work within the scope of weekly working hours either due to a temporary drop in sales of the employer's products or drop in demand for services rendered by the employer ('partial unemployment', also referred to as 'short-time working' or 'temporary layoffs'; in Czech 'částečná nezaměstnanost') , or due to adverse weather conditions or natural disasters.

The Employment Act establishes that if the company is unable to provide work for employees for more than 20% of the weekly working time, it should give employees a wage compensation amounting to at least 70% of their original monthly wage according to the employment contract. The employer is entitled to ask for so the called 'Contribution at time of partial unemployment' (in Czech:
'Příspěvek v době částečné nezaměstnanosti'). The above-mentioned wage compensation is also determined by agreement with the trade union or, in case a trade union does not operate, the agreement may be replaced by internal regulation. Compensation can be

provided for a maximum period of six months with the possibility of extension for the same duration.

The employer and the labour office agree on the amount of the contribution, which has to be later approved by the government. The amount of the contribution according to the act is 20% of the average salary per employee, but not more than 0.125 times the average wage in the national economy in the first to third quarters of the calendar year which was preceding the year of contract conclusion.

In conclusion, this means that an employer should pay his employees at least 70% of their average monthly earning, of which 50% is paid by employer himself and 20% by the labour office. An employee cannot be dismissed while receiving the allowance.

The above-described section 115, the Act no. 435/2004 Coll., on Employment, according to which the so-called allowance was provided during the period of partial unemployment, was canceled from 1.7.2021 and replaced by sections 120 a) to 120 f), according to which the allowance was provided during the period of partial work, the so-called Kurzarbeit. The condition is that the employees of the employer applying for the allowance must work at least 20% of their working hours in total. The amount of the contribution is 80% of the paid wage compensation, including mandatory contributions. The maximum amount of the allowance is newly capped at 1.5 times the average wage in the national economy for the first to third quarter of the calendar year preceding the calendar year. The contribution is provided to the employer by the Labor Office on the basis of an application. The provision of the contribution is determined by the government after a tripartite discussion in the event that the economy of the Czech Republic or its sector is seriously threatened for economic reasons, or due to the occurrence of a natural event or epidemic, cyber attack or other extraordinary situation that is an intervention of force majeure.

Response to COVID-19

In the framework of the 'Antivirus employment retention programme' (Antivirus - podpora zaměstnanosti) the government compensates employers' wage costs from 12 March to 31 August 2020:

- In case of ordered quaratine, the employee receives a wage compensation amounting to 60% of the average earnings (the first 14 days paid by the employer) from the employer. Average earnings are determined from the gross salary (or salary) settled for payment by the employee in the relevant period and from the time worked in the relevant period. The relevant period is the calendar quarter preceding the calendar quarter in which the average earnings are determined to satisfy the employee's claims. The employer receives a state compensation of 80% of the paid wage compensation and the social insurance contributions (up to CZK 39,000 (€ 1,415) per month and

employee).

- In case of business closure ordered by the government, the employee receives a wage compensation of 100% of the average earnings from the employer. The employer receives a state compensation of 80% of the paid wage compensation and the social insurance contributions (up to CZK 39,000 (€ 1,415) per month and employee).
- In case of obstacles to work on the part of the employer due to economic difficulties caused by the COVID-19 crisis, the employee receives a wage compensation of 60-100% of the average earnings from the employer. The employer receives a state compensation of 60% of the paid wage compensation and the social insurance contributions (up to CZK 29,000 (€ 1,052) per month and employee).

## Commentary

Since January 2011, the Labour Office of the Czech Republic has not updated statistics on applications for the previous years because of the improving conditions of the economy, which entailed a decreasing need for this measure. The Labour Office of the Czech Republic started to collect these statistics for the years 2009 and 2010 only. According to labour office of the Czech Republic and Ministry of Labour and Social Affairs (MoLSa) data, in 2010 the number of applications was 850, and 36,999 employees received reduced wages. However, in 2009 a total of 2,733 applications were sent by employers to the labour office and 149,275 employees received reduced wage.

Prior to 2009, the use of this measure was minimal (no mention can be found in ministerial reports for 2007 and 2008). Since December 2008, however, there has been a high level of interest in partial unemployment schemes.

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Employer National government |
| **Involved actors other than national government** | Public employment service Trade union |
| **Involvement (others)** | None |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Czechia: Working time flexibility, Restructuring legislation database, Dublin

Estonia

# Working time flexibility

| | |
|---|---|
| **Phase** | Employment contracts act |
| **Native name** | Töölepingu seadus |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Employment Contracts Act § 37

## Description

If an employer, due to unforeseen economic circumstances beyond his/her control, fails to provide an employee with work to the agreed extent, the employer may, for up to three months over a period of 12 months, reduce the salary to a reasonable extent, but not below the national minimum wage if payment of the agreed salary would be unreasonably burdensome for the employer.

Before reducing wages the employer shall offer the employee other work, if possible.

Before reducing wages an employer shall inform the employee representative or, in his or her absence, the employees and consult them. The employer shall provide notice of the reduction of wages no less than 14 calendar days in advance. The employee or their representative shall give his or her opinion within seven calendar days as of the receipt of the employer's notice.

An employee has the right to refuse to perform work in proportion to the reduction of the wages. Also, an employee has the right to cancel the employment contract on the grounds, notifying thereof five working days in advance. Upon cancellation of the employment contract, the employee shall be paid compensation to the extent of one month’s average wage (also, an employee has the right to receive a benefit upon lay-off under the conditions and pursuant to the procedure prescribed in the unemployment insurance act).

COVID-19 response

Between March and May 2020, employers were eligible to a governmental wage subsidy if they

- have suffered at least a 30% decline in turnover or revenue for the month they wish to be subsidised for (compared to the same month in the previous year);
- are not able to provide at least 30% of their employees (i.e. those who work with an employment contract) with work;
- have cut wages of at least 30% of employees by at least 30% or to the minimum wage.

The subsidy is paid by the Estonian Unemployment Insurance Fund (EUIF). Employers fulfilling the above criteria can apply for a governmental wage subsidy covering 70% of the average monthly wage of the employee, up to € 1,000. The employer must additionally pay a wage of at least €150 to the employee, as well as the national taxes on the wage. If approved, the subsidy is paid directly to the employee. Meanwhile, the employment and social security taxes will be covered by the EUIF.

The above measure was prolonged to June 2020, while the terms were changed. In June 2020, employers were eligible to the wage subsidy if they

- had suffered at least a 50% decline in turnover or revenue in June compared to June last year;
- were not able to provide at least 50% of their employees with work and the work load of the employees has been cut by at least 30%;
- had cut the wages of at least 50% of employees by at least 30% or down to the minimum wage.

As of 1 April 2021, the subsidy can be applied by employers whose turnover in March or April 2021 declined by at least 50% compared to the period of December 2019 to February 2020 or to the average turnover of the second half of 2020 (thus including those companies who started their activities in 2020). The budget for this round of wage subsidy is €140 million, of which €38 million is covered by the EUIF and the rest by the government.

Employees who work in the company as of 1 January 2021 and whose workload or pay has decreased can enjoy the subsidy. 60% of the average gross wage of the employee (max €1,000) will be subsidised. Meanwhile, the employer must pay additionally at least €200 before submitting the application. The subsidy is also eligible for the self-employed in the amount of €584 (national minimum wage) if their business income in 2020 was 50% lower than in 2019.

## Commentary

Reducing salary enables employers to react to changes in the economic situation flexibly and for a limited period of time. In response, employees are allowed to reduce their working time accordingly.

Uptake of the COVID-19 measure by month

March 2020: Employees of 6,738 companies received the subsidy in the total amount of €27.6 million.

April 2020: Employees of 16,064 companies received the subsidy in the total amount of €113.7 million.

May 2020: Employees of 10,489 employers received the subsidy in the total amount of €90.4 million.

June 2020: Employees of 4,106 companies received the benefit in the total amount of €24.8 million.

Altogether 17,644 companies used the wage subsidy scheme in 2020. This is around 12.5% of all economic units/organisations based on the Estonian Tax and Customs Board data. The total number of employees receiving the subsidy was 138,349, which is 20.3% of all employees.

According to the analysis by Praxis published in February 2021, the measure has prevented the potential rise in relative poverty as well as inequalities. For example, the poverty rate would have increased by 4 percentage point without the measure (Koppel, Laurimäe, 2021).

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Employer National government |
| **Involved actors other than national government** | Works council |
| **Involvement (others)** | None |

| | |
|---|---|
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Estonia: Working time flexibility, Restructuring legislation database, Dublin

Finland

# Working time flexibility

| | |
|---|---|
| **Phase** | Working time act (872/2019), Employment contracts act (55/2001) |
| **Native name** | Työaikalaki (872/2019), Työsopimuslaki (55/2001) |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Ch. 4, 5, 6, 12 and 13 of Working time act (872/2019); Ch. 5 of Employment contracts act (55/2001)

## Description

Regulation regarding flexible working hours

According to the Working Time Act, an employer and an employee can agree on flexible working hours, flexitime or reduced working hours. The maximum negotiable flexitime period for when an employee can start and end their workday, is four hours. The employer and employee can also agree on flexitime to be used during evenings, not only during regular working time. Rules on flexible working time can also be applied if at least half of an employee’s working time is of a kind that the employee can decide on how and where to work.

The reformed Working Time Act also allows for the introduction of a so-called working time bank system. It allows employees to work extra in exchange for additional vacation days. The system is supposed to consider employees' individual needs and to improve productivity and competitiveness. The employer and employee agree individually on the use of the working time bank within a framework negotiated by the employer and an employee representative.

Regulation regarding overtime

According to the Working time act (872/2019) (in Finnish), overtime implies that working time exceeds eight hours a day or 40 hours a week in the regular working time regime. Slightly different rules are applied to the less common working time regimes (the average regular working time regime, period-based work, flexible working hours and flexiwork). Rules on flexible working times can be applied if at least half of an employee's working time is of a kind that the employee can decide on how and where to work.

In accordance with section 17 of the act, overtime has to be particularly agreed with the employee each time it is needed, although a more generally applicable agreement on overtime can be made for a brief and predefined period of time. Working time shall not exceed an average of 48 hours per week over a period of four months. Furthermore, the daily rest period of at least 11 hours must be followed.

Overtime exceeding daily, or weekly regular working hours is to be remunerated by the regular wage plus 50% or 100%, depending on the number of overtime hours (section 25 of the act).

Regulation regarding temporary lay-offs

According to chapter 5 of the Employment contracts act (55/2001), the term 'lay-off' means a temporary interruption of work which does not affect the employment relationship in other aspects. The lay-off may be valid until further notice or may be valid for a fixed period. Employees can be temporarily laid-off when the work offered has diminished substantially and permanently. Other valid reasons are financial or production-related reasons or for reasons arising from reorganisation of the employer's operations. Employees with fixed-term contracts can only be laid off if they are substituting permanent employees who could be laid off if they were working.

Employees must register with the public employment services, on the first day of the lay-off at the latest, in order to receive the unemployment benefits they are entitled to during the lay-off. A temporary lay-off can be either on a full-time basis, or it can involve a reduction in regular working hours. The law does not specify a maximum duration for a temporary lay-off.

## Commentary

The use of flexible working time has increased slightly since 2006, however with some temporary fluctuations in its occurrence, according to the Working Life Barometer 2022 by the Ministry of Economic Affairs and Employment. In 2021 a working group comprised of employee and employer organisations, and ministries, with the task to carry out preparations for the implementation of the Work-life Balance Directive (EU) 2019/1158,

concluded that the opportunity for flexible working time is among the strongest in Finland compared to the rest of Europe. In addition to the Working Time Act, flexibility is also provided through the Employment contracts act, as well as the Family leave reform from 2022. Work-life balance through flexible work time has however not been realised, the working group concludes.

Temporary lay-offs

The temporary lay-off system acknowledges company's need to maintain its professional workers, even during periods in which they cannot provide their employees with employment. Temporary layoffs constituted the principle means by which Finnish enterprises tried to minimise dismissals and to survive the recession following the financial crisis in 2008-2016. However, as the Finnish economy recovered, the number of temporary layoffs decreased. In February 2019, there were some 16,000 full-time employee layoffs, compared to 17,000 in February 2018, 23,300 in February 2016 and 30,500 in February 2015. The majority of layoffs last a fixed period of time, and the average duration was 58 days in 2017.

The COVID-19 pandemic have significantly increased the number of employees that have been laid off either on a full-time basis or whose working hours have been shortened. In April 2020, the number of employees who were laid-off on a full-time basis was 164,000. This is 152,000 employees more than the number in April the year before. The number of employees whose working hours had been temporarily reduced was 20,300, which is 14,500 more than the number in April the year before. Since then, the number has decreased significantly. In May 2021, 41,200 employees were laid off on a full-time basis and the number of employees whose working hours had been decreased was 14,900. More than two years later, in September 2023, 17,700 jobseekers were fully laid-off, which was much lower than in 2021 but still 8,300 more than in September 2022. Employees working on a reduced working week were 6,700 in September 2023, which was and increase of 1,500 from a year earlier. Information regarding lay-offs is published every month by the Ministry of the Economic Affairs and Employment in their Employment Bulletin.

Although trade unions acknowledge the value of this labour market instrument, they identify difficulties. In some situations, trade unions argue that instead of laying off employees, the employer should keep them and invest in training and other qualification measures. According to the unions, good practice examples do exist of companies that have concluded co-determination negotiations with employees and local labour authorities, resulting in the provision of training for temporarily laid-off staff. Trade unions also consider a significant number of temporary lay-offs as being economically unjustified. Trade unions argue that in some cases, employers dismiss staff temporarily without a

genuine need. At the same time, the unions wish to highlight the impact of temporary lay-offs on the employees who are not laid off, but continue to work in the company. These workers are often responsible for both their own work as well as the duties of those of who have been laid off. This can result in extended working hours without proper compensation.

Other remarks

The Working time act gives great freedom for collectively agreed exemptions from national working time regulation.

Collective agreements may also regulate the use of the working time bank. For instance, such agreements can rule that working time deposited in the bank must be used before lay-offs can take place.

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Employer National government |
| **Involved actors other than national government** | Public employment service Employer organisation Trade union |
| **Involvement (others)** | None |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Finland: Working time flexibility, Restructuring legislation database, Dublin

France

# Working time flexibility

| | |
|---|---|
| **Phase** | Labour Code Ordonnance n° 2020-346 of 27 March 2020 |
| **Native name** | Labour Code Ordonnance n° 2020-346 of 27 March 2020 |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Labour Code, article L5122-1 to L5122-5 (Short-time working) Labour Code, article L. 2254-2, L. 2231-5-1 and R. 6323-3-2 (Collective performance agreement) Ordonnance n° 2020-346 of 27 March 2020

## Description

Apart from the common measure of short-time working (activité partielle or chômage partiel), the legislator has added a new scheme in 2017, the Collective performance agreement that replace three previous schemes: agreements to maintain employment (accord de maintien dans l'emploi), agreements to preserve or develop employment (accords de préservation ou de développement de l'emploi) and mobility agreements (accords de mobilité).

1. Short-time working

After the 2008-2009 financial and economic crisis, it became clear that the French system for using short-time working was too complex. So, as soon as the COVID-19 crisis hit, the public authorities learnt the lessons of the less effective French short-time working system (compared with Germany, in particular), and quickly introduced simplifications. Therefore, a decree of 25 March 2020 as simplified the process to apply for short-time working.

The scheme has been adapted many times during the COVID-19 crisis. For instance, the level or compensation have varied a lot during the COVID-19 crisis, in terms of percentage of the previous gross salary, of floor threshold expressed in euros and of threshold that

depends of the minimum wage level (SMIC). In addition, two rates to compensate employers occurred during the crisis, one for companies in specific situations and another for “other companies”. And to add complexity, changes may occur in the same quarter.

In November 2023, the scheme works as follow:

Reasons to use the short-time working scheme

To cope with a drop in activity in the company, the employer may engage in short-time working in the following cases:

- Economic conditions
- Supply difficulties
- Exceptional disaster or bad weather
- Company transformation, restructuring or modernisation
- Any other exceptional circumstances (e.g. COVID-19)

It can take several forms:

- Decrease in weekly working hours
- Temporary closure of all or part of the establishment

The employer may set up for its employees a short-time working allowance up to:

- 1,000 hours per year per employee whatever the professional branch
- 100 hours per year per employee if the partial activity is due to modernisation work on the company's facilities and buildings

Affected employees

Before the COVID-19 crisis, the short-time working scheme mainly covered "traditional" jobs held by employees on open-ended contracts. The COVID-19 crisis forced the legislator to open up the scheme to other workers, with employee status, but under different types of contract. As a result, the scheme is now open on a permanent basis, as the measure introduced in 2020 is not for a fixed term:

- All employees with an employment contract under French law (including open-ended or fixed-term contracts), regardless of whether they are taken on:
- Full-time or part-time employees,
- Employees on a fixed-term contract in hours or days over the year (forfait heures or forfait jours, a formula that allows working hours to be calculated as a total volume of hours or days); under the status of "Voyageur, représentant et placier" (VRP) which

covers sales force travelling all their working time from one customer to the other;
- as an employee in France of a foreign company with no establishment in France;
- as an employee paid on a "cachet" basis (artists, models, etc.);
- as a temporary employee on an assignment contract following the suspension, cancellation or termination of a signed secondment contract;
- as an employee on a permanent contract under a "portage salarial" scheme (a system enabling workers to work on assignments for several companies on a permanent contract with a "portage salarial" company);
- as a manager in the event of the total closure of the company or part of it (closure of a workshop or department of the company, for example).
- as a home-worker paid by task
- as a journalist paid on a "freelance" basis (depending on the length of the articles ordered). Under apprenticeship or professionalisation contract (Labour code, article L5122-5)

The following employees do not benefit of short-time work:

- Employees whose reduction or suspension of activity is caused by a collective labour dispute (e.g. strike)
- Employees with a contract of employment under French law who work abroad
- Expatriate employees with a local law contract

Information and consultation

An information and consultation procedure is required in companies with more than 50 employees where there is a works council (CSE). In this case, the employer must consult staff representatives before implementing short-time working. The discussion will cover the reasons for using the system, the occupational categories and activities concerned, the level of and procedures for implementing reductions in working hours, the training measures envisaged and any other commitments made by the company. In other companies, the employer must inform its employees directly of the partial activity.

However, in the case of "exceptional disaster or bad weather" and "other exceptional circumstances", such as a health crisis, and where it has not been possible to convene a meeting of the works council, this opinion may be sought after the request has been made. It is up to the employer to send the opinion of the CSE within a maximum period of two months from the date of submission of the request for prior authorisation. This flexibility was introduced by the decree of 25 March 2020.

Application procedure

The procedure varies depending on the exceptional nature of the request, in case of disasters or bad weather. In the most common case, the exceptional circumstances, the employer must submit an application for authorization to engage in a short-time working to the Departmental Directorate for Employment, Labour and Solidarity (DDETS, former Direct). The employer has to apply on an Internet website within 30 days of the placing of its employees in partial employment. The application shall specify the following:

Ground for the use of short-time working Expected period of sub-activity Detailed circumstances and economic situation giving rise to the request Number of employees concerned

It must be sent with the prior opinion of the Social and Economic Committee (CSE). In the event of an accident or exceptional circumstances, the employer has two months to consult and send the CSE's opinion in support of its request for prior authorisation. The administration has a response time of 15 calendar days upon receipt of the application for authorisation. An acknowledgement of receipt of the DDETS shall specify the period after which the absence of a reply shall constitute authorisation. Once the administrative authorisation has been obtained, the employer may reduce or suspend his activity and place his employees on technical unemployment insurance. It is this authorisation that enables him to obtain reimbursement of the allowances paid to the employees.

Maximum duration of authorisation

Short-time working authorisation may be granted for a period of 3 months. It may be renewed for up to 6 months, consecutively or not, over a period of 12 consecutive months.

** Commitments towards employees**

The employer must propose employment and vocational training commitments in its application for authorisation. The procedure varies depending on whether the authorisation is requested for the first time, less than or more than 3 months after a previous period of partial activity. For a first application, the employer undertakes to keep the employees in employment for the duration of the partial activity. They must also comply with the conditions for authorising partial activity.

Employee compensation

The employer must pay the employee compensation corresponding to 60% of his gross salary per hour unemployed person, or approximately 72% hourly net salary. This allowance may not be less than €9.12 or more than €31.10 per hour not worked (amount in force in November 2023).The employer must indicate on the employee's pay slip the number of hours compensated, the rates applied and the amounts paid.

A collective agreement or unilateral decision by the employer may provide for additional compensation.

** Short-time working allowance paid by the State to the employer**

Before the COVID-19 crisis, the employer received a lump-sum allowance to compensate for the payment of wages to workers placed on short-time working. To make access to short-time working more attractive, the government decided that the allowance would be set in proportion to wages and therefore expressed as a percentage of the employee's gross pay. Thus, at the start of the crisis, employers were reimbursed up to 70% of gross hourly pay, ranging from a floor corresponding to the net hourly minimum wage (SMIC) to a ceiling corresponding to a gross salary of 4.5 SMIC. At the same time, the compensation paid to employees was increased to 100% of gross hourly pay. As a result, the remaining cost to the employer is zero. Recourse to short-time working therefore cost the employer nothing. Following the first lockdown, the compensation and allowance parameters for ordinary short-time working were progressively lowered in the run-up to the end of the crisis, except for sectors subject to health restrictions or protected sectors.

In November 2023, the scheme was the following:

In the general case, if the employer has obtained administrative authorisation, it may submit a request for compensation, which enables it to obtain monthly reimbursement of the remuneration paid to the employees concerned. The employer may receive the Short-time working allowance up to a maximum of 1,000 hours per year per employee. The allowance is set at 36% of gross hourly pay. It amounts to : * €8.21 minimum * €18.66 maximum.

** Social security contribution**

Short-time working allowances are replacement income and as such, even before the health crisis, are exempt from all social security contributions based on earned income. However, short-time working allowances are subject to two kind of social contribution (but that are closer to taxes) : Contribution sociale généralisée (CSG) on replacement income at a rate of 6.2% and to Contribution au remboursement de la dette sociale (CRDS ) at a rate of 0.5%. These contributions are based on the short-working allowance after application of the deduction for professional expenses (1.75%). This social security regime has been extended to additional indemnities paid by the employer, over and above statutory indemnities, up to a limit of 3.15 Smic. Payments in excess of this amount are subject to the social security contributions applicable to earned income.

2. Collective performance agreement

Collective performance agreements may be concluded in order to meet the needs associated with the operation of the company or with a view to preserving or developing employment. These agreements may include stipulations aimed at : * adjust working hours and the way in which they are organised and distributed; * adjust remuneration, in compliance with the hierarchical minimum wages defined by the branch agreement; * determine the conditions for professional or geographical mobility within the company.

The special feature of the collective performance agreement lies in its relationship with the employment contract. The clauses of the agreement replace contrary and incompatible clauses in the employment contract, with the employee's agreement. If the employee opposes the application of the agreement, he or she may be dismissed on a sui generis basis (i.e. based on the refusal of the agreement); he or she will then benefit from an exceptional top-up to his or her personal training account.

Implementation

In companies where there is at least one trade union delegate: negotiations with a view to concluding a collective performance agreement may only take place with this trade union delegate (or with the trade union delegates). In this case, the agreement must be concluded in accordance with the procedures set out in article L. 2232-12 of the Labour Code (signed by the trade union organisations that received more than 50% of the votes cast in the last professional elections for representative trade union organisations or 30% and validated by referendum). In companies with at least 50 employees and a social and economic committee (CSE), this committee may appoint a chartered accountant to provide the trade unions with any useful analysis in preparation for negotiations on the collective performance agreement. The costs of this appraisal will be borne by the committee, from its operating budget, up to a maximum of 20%, and by the employer, up to a maximum of 80%.

In the absence of any trade union delegates or a CSE: a collective performance agreement may be negotiated and concluded using other methods (by all employees, by employees mandated by a trade union organisation, etc.).

Duration and content of the agreement

Regardless of how the collective performance agreement is negotiated, it is up to the negotiating parties to determine the duration of the agreement. In the absence of details in the agreement, this duration is set at 5 years.

Like any collective agreement, the collective performance agreement must include a preamble. The objectives of the agreement are specified in the preamble. These objectives must be linked to the purpose of the agreement (to meet the needs of the company's

operations, preserve or develop employment).

Collective performance agreements are concluded in order to meet the needs linked to the operation of the company or with a view to preserving or developing employment. To this end, they may :

- adjust working hours and the way in which they are organised and distributed; *adjust remuneration within the meaning of article L. 3221-3 of the French Labour Code, in compliance with the agreed minimum hierarchical wages (in any event, it should be noted that these minimum wages may not be lower than the minimum wage);
- determine the conditions of professional or geographical mobility within the company.

Employee refusal to apply the agreement

Refusal to apply the agreement will result in the employee's dismissal. An employee who is dismissed is entitled to the statutory redundancy payment or, if this is more favourable, to the payment provided for in the collective agreement. If the employer waives the notice period, the employee will also be entitled to compensation in lieu of notice. Finally, if the employee still has any untaken paid leave, the employer will have to pay an indemnity in lieu of paid leave. The employee may register with the public employment service (Pôle emploi) and be supported as a jobseeker following dismissal. They will receive unemployment insurance benefits in accordance with the terms of the unemployment insurance agreement.

Top-up of the personal training account

Employees made redundant because they refuse to accept a change to their employment contract resulting from the application of a collective performance agreement will have their personal training account (CPF) topped up by a minimum amount of €3,000. The collective performance agreement may provide for a higher amount.

## Commentary

Short-time working

Following Law n°2013-504 of June 2013 on job security, the partial unemployment scheme has been reformed (and renamed into partial activity). This reform is supposed to simplify the previous scheme that was considered too complex: different levels of compensation were cumulated throughout different reforms. This new scheme is also supposed to provide better compensation for workers and advantageous support for companies. As soon as the COVID-19 crisis hit, the public authorities learnt the lessons of the less

effective French short-time working system during the financial crisis (compared with Germany, in particular), and quickly introduced additional simplifications. Therefore, a decree of 25 March 2020 as simplified the process to apply for short-time working.

The DARES (direction of research, studies and statistics of the Ministry of Labour) publishes every three months data about the number of hours and expenses spent on partial activity, as well as the number of employees involved.

In the 2nd quarter of 2023, 73,000 employees would be in partial activity on average each month, after 106,000 in the 1st quarter of 2023, a decrease of 31% (data not adjusted for seasonal variations). In full-time equivalent (FTE) terms, an average of 13,000 employees would be placed in partial activity each month in the 2nd quarter of 2023, down 39% on the previous quarter (DARES 2023).

Research carried out on over 36,000 French companies (with at least 50 employees) using partial activity between 1996 and 2004 has shown that participation in the scheme does not reduce layoffs when companies face an economic downturn. This is especially so in cases of long duration of partial activity (Calavrezo et al, 2009). In addition, the uptake of partial activity tends to be an early indicator of dismissal that will follow. These results do not necessarily suggest that partial activity is an inefficient job security policy instrument. It may be the case that short-time working and layoffs play a complementary role to each other in addressing temporary economic difficulties.

Employees' entitlements to unemployment benefits and future pension entitlements are not negatively affected in situations where they have been placed under the partial activity scheme. A good level of consensus between the social partners has facilitated the implementation of urgent measures in response to the global recession. Finally, the scheme provides affected employees with the right to training days provided by different employers.

- Agreements to maintain employment *

In March 2015, according to an assessment of the Ministry of Labour launched two years after this instrument was implemented, only 9 companies had signed agreements to maintain employment. While it helps to avoid dismissals, it is deemed to be a cumbersome and constraining scheme. Social partners have launched an assessment and have suggested some legal changes in June 2015 to increase the number of such agreements. The changes have been introduced in the Labour Code by the law 2015-990 of 6 August2015 for growth, activity and equal economic equality (Loi Macron). Since, an agreement can be signed for 5 years instead of 2 year, a period considered too short to allow a company to restore its competitiveness, and some adaptations have been made to facilitate the dismissal process of employees refusing the content of such agreement. It

has to be noted, however, as mentioned by Dares (DARES 2015, Des négociations collectives plus orientées vers l'emploi en 2013, Dares Analyses n°94, December 2015) that even if the number of agreements to maintain employment is low, social partners have signed company-level agreements since 2013 to agree on an employment safeguard plan. In such agreements, which can be signed by one or several unions representing at least 30% of the workforce (instead of 50% to conclude a valid agreement to maintain employment), provisions affecting working time (increase of working time) or/and wages (increase of working time with no wage increase, or freeze of wages etc., can be introduced. In 2013, about a hundred of such agreements were signed according to Dares (2015).

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Employer National government |
| **Involved actors other than national government** | Employer organisation Public employment service Trade union Works council Other |
| **Involvement (others)** | The employer has to ask the labour inspectorate for authorisation. The labour inspectorate has 30 days to grant or deny authorisation. This request for authorisation has to be accompanied by the opinion of the employees' representatives. |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), France: Working time flexibility, Restructuring legislation database, Dublin

Germany

# Working time flexibility

| | |
|---|---|
| **Phase** | Social code book III |
| **Native name** | Sozialgesetzbuch (SGB) III |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Section 6 - Remaining in employment Subsection 1 - Short-time working allowance Articles 95-111, 134

## Description

The Social code book III provides for three forms of short-time working arrangements ('Kurzarbeit').

- The first, structural short-time working ('Konjunkturelle Kurzarbeit', KUG), is applicable in case of a temporary and unavoidable shortfall of orders due to economic downturns/crises or due to unavoidable disasters.
- The second form is short-time working in the event of restructuring ('Transferkurzarbeit', Transfer-KUG). In this case, the duration of short-time working is used for training or job transfer measures.
- The third arrangement, seasonal short-time working ('Saisonkurzarbeit', Saison-KUG) is a sector-related instrument to weather typical seasonal downturns (such as in the construction sector, for example).

In all of these cases, if employers want to introduce short-time work, they must first consult the works council and then apply to the Federal Employment Agency ('Bundesagentur für Arbeit') for approval.

The company has to have exhausted other options that might help to avoid using short-time work, such as granting leave days, use of holiday entitlements of previous years or of 10% of the working time account of the running year.

Short-time work may be set in place if one third of the workforce is affected by a wage drop of over 10% due to a temporary decrease in workload. The workforce in this case is defined as including standard and non-standard workers (excluding temporary agency workers and home workers). In the calendar month for which short-time work support is applied, at least one third of a company's employees (or one of several specific units) must be concerned.

If short-time work is approved by the Federal Employment Agency, the employer pays for the actual working time and the Federal Employment Agency contributes a short-time working allowance of 60% of the missing net wage. This share increases to 67% if the worker is a parent. Short-time working allowances are granted to standard and non-standard workers liable to social security contributions for monthly wages that do not exceed €7,300 in Western Germany and €7,100 in Eastern Germany (2023). Workers with ‘mini-jobs’ are not liable to social security contributions (earning up to €520 per month). An exemption related to the COVID-19 crisis allowing also to include temporary agency workers (holding a work contract with another employer) expired in June 2023. Also trainees are excluded.

The maximum duration of state-funded short-time working allowances is 12 months. An exception allowing to extend this period for up to 28 month expired in June 2022.

While a company is receiving public short-time working support, new employees can only be recruited to sections of the company that are not subject to short-time work. Moreover, it has to be proven that the vacancy cannot be filled by one of the company's current short-time workers. Dismissals during short-time working are possible, but the worker has to return to full-time employment during the notice period, and the employer is then no longer entitled to the public short-time working allowance for that worker.

## Commentary

This measure is a central instrument for preventing dismissals. The measure offers companies cost and productivity advantages by adjusting working time to the market situation and volatile demand. It makes it possible to react quickly and flexibly to volatile production levels by enabling an immediate return to full-time work in case order levels improve. The need for severance payments and costs related to hiring and induction of new staff that may arise in case of dismissals are avoided. At the same time, workers benefit from job security. The public support partly compensates workers for their loss of

income and allows them to maintain a level of social security. Drawing a short-time allowance does not affect eligibility periods for unemployment benefits. The Federal Employment Agency supports low skilled workers in undertaking training during the time of short-time working.

The Federal Employment Agency provides monthly and yearly data on short-time work. On average, yearly, there were 14,156 companies applying a short-time work scheme in 2019. This number rose to 318.735 in 2020 and fell again to 250.099 in 2021 and 55.727 in 2022. For workers in short-time work, the yearly average number was 145.276 in 2019 and rose to 2.938.786 in 2020. It fell to 1.851.802 in 2021 and further to 425.571 in 2022.

## Additional metadata

| | |
|---|---|
| **Cost covered by** | National government |
| **Involved actors other than national government** | Public employment service Works council |
| **Involvement (others)** | None |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: There is no threshold in place regarding the total number of affected employees or the company size. |

## Sources

# Citation

Eurofound (2015), Germany: Working time flexibility, Restructuring legislation database, Dublin

## Greece

# Working time flexibility

**Phase**

-Law 4808/2021 (Official Government Gazette A' 101/19.06.2021), "For Labour Protection - Establishment of an Independent Authority 'Labour Inspection' - Ratification of Convention 190 of the International Labour Organization on the Elimination of Violence and Harassment in the World of Work - Ratification of Convention 187 of the International Labour Organization on the Framework for the Promotion of Safety and Health at Work - Incorporation of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on the balance between professional and private life, other provisions of the Ministry of Labour and Social Affairs and other urgent regulations", as amended by Law 5053/2023 (Official Government Gazette A' 158/26.09.2023), "To strengthen work - Integration of Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 - Simplification of digital processes and strengthening of the Work Card - Upgrading the operational function of the Ministry of Labour and Social Security and the Labour Inspectorate" -Law 4611/2019: Settlement of debts to social security institutions, the tax administration, and first-level local authorities, pension regulations for civil servants, and other insurance and pension provisions, strengthening the employees' protection and other provisions' (OJHR A-73/17.05.2019 and A-75/22-05-2019); Circular 34186/564/18-8-2015, Ministry of Labour, Social Security and Social Solidarity, information on working times; Law 3986/2011: Urgent measures for the implementation of the medium-term financial strategy framework 2012 - 2015; Law 3846/2010 Guarantees for employment security and other provisions

| | |
|---|---|
| **Native name** | -Νόμος 4808/2021 (ΦΕΚ Α' 101/19.06.2021), "Για την Προστασία της Εργασίας - Σύσταση Ανεξάρτητης Αρχής «Επιθεώρηση Εργασίας» - Κύρωση της Σύμβασης 190 της Διεθνούς Οργάνωσης Εργασίας για την εξάλειψη της βίας και παρενόχλησης στον κόσμο της εργασίας - Κύρωση της Σύμβασης 187 της Διεθνούς Οργάνωσης Εργασίας για το Πλαίσιο Προώθησης της Ασφάλειας και της Υγείας στην Εργασία - Ενσωμάτωση της Οδηγίας (ΕΕ) 2019/1158 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 20ής Ιουνίου 2019 για την ισορροπία μεταξύ της επαγγελματικής και της ιδιωτικής ζωής, άλλες διατάξεις του Υπουργείου Εργασίας και Κοινωνικών Υποθέσεων και λοιπές επείγουσες ρυθμίσεις", όπως τροποποιήθηκε από το Νόμο 5053/2023 (ΦΕΚ Α' 158.09.2023), "Για την ενίσχυση της εργασίας - Ενσωμάτωση της Οδηγίας (ΕΕ) 2019/1152 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 20ής Ιουνίου 2019 - Απλοποίηση ψηφιακών διαδικασιών και ενίσχυση της Κάρτας Εργασίας - Αναβάθμιση της επιχειρησιακής λειτουργίας του Υπουργείου Εργασίας και Κοινωνικής Ασφάλισης και της Επιθεώρησης Εργασίας" -Νόμος 4611/2019: Ρύθμιση οφειλών προς τους Φορείς Κοινωνικής Ασφάλισης, τη Φορολογική Διοίκηση και τους Ο.Τ.Α. α΄ βαθμού, Συνταξιοδοτικές Ρυθμίσεις Δημοσίου και λοιπές ασφαλιστικές και συνταξιοδοτικές διατάξεις, ενίσχυση της προστασίας των εργαζομένων και άλλες διατάξεις, (ΦΕΚ Α' 73/17.05.2019 και Α' 75/22-05-2019); Έγγραφο 34186/564/18-8-2015, Υπ. Εργασίας, Κοινωνικής Ασφάλισης και Κοινωνικής Αλληλεγγύης, Παροχή πληροφόρησης επί χρονικών ορίων εργασίας; Νόμος 3986/2011Επείγοντα Μέτρα Εφαρμογής Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής 2012 - 2015; Ν. 3846/2010 Εγγυήσεις για την εργασιακή ασφάλεια και άλλες διατάξεις |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

# Article

-Law 4808/19.06.2021, Part IV: 'Labour Protection Regulations', Chapter A': 'Settings of Individual Labour Law', Articles 55, 57-59, 61-62, 67 on 'Telework', 68-72 on 'Digital Platforms' -Article 50, Part-time employment and work rotation schemes, par. 1 and 2 of Law 4611/2019; Circular 34186/564/18-8-2015 whole circular; Law 3986/2011, Article paragraph 1 and Law 3846/2010, Article 7

## Description

-Law 4808/19.06.2021 amends the previous provisions on working time and normal annual leave (leisure), and regulates telworking arrangements, as follows: with article 55, without specifying the legal weekly hours, a definition of "full employment" is given, which is defined in principle as the work of 40 hours/per week, distributed according to whether the company applies a five-day or six-day employment system; article 57 introduces the possibility of providing additional work by the part-time employee in a time that is not consecutive to the agreed hours of the same day; article 58 increases the annual hours of overtime work without changing the overtime due, while the increase of illegal overtime work increases; article 59 amends article 41, Law 1892/1990 in that, the implementation of a working time arrangement system no longer requires the consent of the employees' institutional representatives and an agreement with them; with article 61, it is possible to use up the annual normal leave (leisure) also within the first quarter of the following calendar year; article 62 regulates in particular the undoubtedly resulting (foreseen, also, in art. 361 of Greek Civil Code) possibility of the parties to agree to grant the employee leave without pay; article 67 on telework stipulates that despite the voluntary nature of teleworking, it can be applied unilaterally by decision of the employer, or at the request of the employee, in order to ensure public and personal health; the use of camera intended to monitor teleworkers is prohibited, protecting as such their privacy; the right to disconnect frin the computer, emails and phone calls during the non-working hours, is assured; workplace and telework hours should be registered in ERGANI Digital Information System. Under Law 4808/2021, it was determined that teleworking can be implemented in combination with work from the employer’s premises, as a hybrid work model; articles 68-72 on digital platforms introduce regulations on the legal nature of the relationship, the rights and obligations of digital platforms with the service providers connected to them. It also introduces a presumption as to the cases that are not characterized as a dependent employment relationship.

-Organisation of working time was instituted and readjusted with the 'Memorandum' labour act (Act 3986/2011), which introduced a series of new regulations with collective bargaining at the core. In brief, the relevant provisions establish that in firms with conventional working hours of up to 40 hours a week it is permitted for a certain period of time (a period of high workload) for an employee to work two hours more than the

eight-hour day, on the condition that the weekly working hours which are in addition to the 40 hours or the minimum hours stated in the contract are subtracted from the weekly hours of another period (period of low employment).

In firms with conventional working hours of up to 40 hours a week, it is permitted, instead of the arrangement in the previous paragraph, to agree that up to 256 working hours from the total annual hours of employment in one calendar year may be allocated so that there is an increased number of hours during certain periods, which may not exceed 32 weeks annually, with a correspondingly reduced number of hours for the remaining periods of the calendar year.

Circular 34186/564/ 18 August 2015 set clarifications for non-compliance to Law 3863/10 according to which the unequal distribution of working hours across the days of the week is not prohibited, provided the total does not exceed 40 hours. Working fewer hours on one day and making up these hours on another day does not constitute part-time employment. It is therefore entirely lawful to distribute the 40 hours across the days of the week in such a way that on some days the working day is up to eight hours (for a six-day working week) or nine hours (for a five-day working week) and on the other days, less than 6.66 hours (for a six-day working week) and eight hours (for a five-day working week). If the total hours do not exceed 40 per week there is no additional work, and if the above daily limits are not met, there is no overtime either. In addition, Law 4611/2019 explicitly stated that the full employment of the employee is presumed in the case of non-compliance with the written form or non-notification of the agreement for part-time employment or work rotation or the employer's decision to unilaterally enforce work rotation to the labour inspectorate.

Employees have the right to refuse the flexible working hours arrangement if they are not in a position to perform it and if their refusal is in good faith. Salaries for the periods of deviating working hours shall be those of the usual working hours. The organisation of working time is determined by firm-level collective labour agreements or by agreement between the employer and the trade union representing the firm's members or by agreement between the employer and the works council or by agreement between the employer and an association of persons. The association of persons can be set up by at least 25% of the employees of a firm with more than 20 employees and 15% if the total number of employees is no more than 20. With firm-level and sectoral collective labour agreements, a different system for organising working time can be established, depending on the particularities of the sector of the firm.

Temporary dismissal of salaried workers

The conditions and procedure for temporarily laying off salaried employees have been put on a new basis with the 2010 labour act (Act 3846/2010). The relevant provisions establish that firms and undertakings with restricted economic activity may, instead of terminating an employment agreement, serve written notice temporarily laying off salaried employees for no longer than three months annually, provided they have first consulted with the employees' legal representatives. Employee representatives are defined, in the following order of priority, as:

- representatives of the firm or most representative trade union of the undertaking covering, according to its statutes, employees irrespective of category, position or skill;
- representatives of the firm or existing trade unions of the undertaking;
- the works council;
- in the absence of trade unions or a works council, the entire workforce is notified and consulted with.

The notification may be via a single notice posted in a conspicuous and accessible place at the firm. Consultation occurs at a place and time set by the employer. At the end of the three-month period, the same employee cannot be temporarily laid off for at least another three months.

The relevant departments of the labour inspectorate (SEPE), the social insurance foundation (IKA) and the public employment service (OAED) must be notified by the employer in any manner of the declaration of temporary layoffs of all or part of the workforce.

For salaried employees in public utility firms or undertakings employing more than 5,000 salaried employees, approval is required from the Ministry of Labour and Social Security, which is granted by application of the employer with the approval of the plenary supreme labour council.

During the period of temporary layoff, salaried employees receive half of the average of their full employment earnings for the previous two months. If the employer temporarily lays off salaried employees, the OAED pays those who remain unemployed while laid off 10% of the average of their regular full employment earnings for the previous two months. These allowances are paid for a maximum of three months every year.

Rotating employment

When drawing up a labour agreement or while it is in force, an employer and a salaried employee may, through an individual written contract, agree on any form of rotating

employment. Rotating employment is considered to be employment for fewer days a week or fewer weeks a month or fewer months a year or a combination thereof compared to full-time work. The protection provided by this article also covers those employed on the basis of the agreements described in the previous section. Employers whose economic activity is limited may, instead of terminating the contract of employment, impose a system of rotating employment in their firms, the duration of which may not exceed nine months in the same calendar year, only providing they have previously informed and consulted the employees' lawful representatives. Employee representatives are defined as above.

Part time and rotating employment are paid by the employer.

## Commentary

-With Law 4808/2021, the most drastic change of the last decades occurred in labour relations: a working time arrangement which deviates from the standard one (i.e. 40 hours per week and 8 hours per day in case of a 5 days' work week) was already provided as an option by means of an agreement with the employee union; as of now, it becomes also possible. by means of an individual written agreement, following a request by the employee. In this context, it can be agreed that the employee will work two additional hours/per day on the same remuneration and, in exchange, they will work two hours less/per day during another period, or take time off, or a combination thereof. The annual overtime cap has increased to 150 hours up from 120 hours. Remote working requires an agreement between the employer and the employee, with two exceptions now: a) the employer can unilaterally impose remote working for public health protection reasons, following a relevant Ministerial Decision; and b) the employee can request to work remotely in case of evidenced health risk (due to specific health conditions to be set forth in a Ministerial Decision) which can be prevented by remote working. Employees who are caregivers, or who have children up to age 12, can request to work flexibly. This includes the right to time off from work on grounds of force majeure for urgent family reasons, remote working, flexible working hours or part-time employment. Remote workers now have the right to disconnect outside of their normal working hours, and are protected from discrimination for exercising this right. Concerning the working time organisation as regulated by art. 55, Law 4808/2021 it has been argued that the expediency of the independent definition by legislative provision of "full employment" is unclear and its usefulness doubtful, given that the negative definition of the corresponding concept of part-time employment in article 38 par. 1 and 2 of Law 1892/1990 and clause 3 of the framework agreement on part-time work contained in the annex of Directive 97/81/EC did not create doubts in theory and in practice. The association of this provision with others that determine maximum employment time limits, combined with the dubious ratio of the

regulation, cannot be excluded from creating significant interpretive difficulties in practice.Concerning the possibility of providing -as stipulated in art. 57- 'additional work by the part-time employee in a time that is not consecutive to the agreed hours of the same day', this was not possible until today since, par. 7, article 38, Law 1892/1990 provided (and still provides) that 'if part-time employment has been determined with a daily schedule of shorter duration than normal, the provision of the agreed work of part-timers must be continuous and provided once a day'. Under art. 59, for the implementation of a working time arrangement, is now sufficient to draw up an agreement with the formal initiative of the employee, but also to adhere to a form document. With the new par. 12 it is defined that, the termination of the employment contract before the exhaustion of the period of reduced employment gives rise to a claim for compensation for exceeding the legal hours that preceded it, according to the provisions of the article 4 Law 2874/2000, as already amended by article 58, Law 4808/2021. The establishment of a possibility of exceeding the year as a reference period for the granting of annual regular leave (art. 61) without a specific reason is doubtful that it is in harmony with article 7, of Directive 2003/88/EC.Under art. 62, the agreement is now submitted in a constitutive form document. After the expiration of the leave, the rights and obligations of the parties from the dependent labour contract are revived. The legislator left unregulated the only issue perhaps worthy of regulation: the calculation or not of the time of unpaid leave for the establishment of the employee's rights. According to the jurisprudential approach that has been up to date, this time is taken into account for the calculation of the due severance pay, while reservations are formulated in theory.

-From January to September 2019, there were 2,173,467 new contracts (increase by 5.6%) of which 1,010,706 are full-time contracts (46.50%), 901,908 part-time (41.50%) and 260,853 (12%) rotating employment contracts.  In 2016, there was a 20.5% increase of full-time contracts of employment compared with 2015, a 26.9% increase in part-time employment contracts and a 4.1% decrease in rotating employment contracts. New hires on part-time and rotating employment contracts represented 54.7% of all new contracts. In 2015, there was a 3.8% increase of full-time contracts of employment compared with 2014, a 19.6% increase in part-time employment contracts and a 45.6% increase in rotating employment contracts. New hires on part-time and rotating employment contracts represented 55.6% of all new contracts. In 2012, there was an 18.42% reduction in full-time contracts of employment compared with 2011, and a 3.61% increase in part-time employment contracts. New hires on part-time and rotating employment contracts represented 45% of all new contracts. In 2010, at the beginning of the crisis in the labour market, 26,253 alterations to contracts were registered with SEPE (labour inspectorate), of which 18,713 were altered from full-time to part-time and 7,540 from full-time to rotating employment. These figures rose in 2011 to 58,962 alterations to contracts (an increase of 124.6% compared to 2010), of which 32,420 were altered from full-time to part-time and 26,542 from full-time to rotating employment. In 2012, alterations to contracts rose again

to 84,490 (an increase of 43.3% over 2011), of which 49,640 were altered from full-time to part-time and 34,850 from full-time to rotating employment.

## Additional metadata

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|---|---|
| **Cost covered by** | Employee Employer |
| **Involved actors other than national government** | Public employment service Regional/local government Trade union Works council Other |
| **Involvement (others)** | Labour inspectorate (SEPE), Social Insurance Foundation (IKA -now EFKA), Public Employment Service (OAED -now DYPA) |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Greece: Working time flexibility, Restructuring legislation database, Dublin

Hungary

# Working time flexibility

| | |
|---|---|
| **Phase** | Act I of 2012 on the Labour Code |
| **Native name** | 2012. évi I. törvény a Munka Törvénykönyvéről |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Chapter 48, Articles 93 and 94

## Description

Working time flexibility is primarily ensured through implementing and allocating cumulative working time (or working time banking) when the actual working time schedule can be adjusted to the labour force requirement of companies/institutions.

If working time banking is applied, the maximum working hours (without overtime) within the banking period shall be calculated on the basis of the standard daily working time (eight hours) and standard work patterns (five working days a week). Public holidays falling on working days according to the standard work patterns as well as the duration of absence (for example due to training provided by the employer, compulsory health check, breast feeding, etc.) should not be taken into account. As regards the actual working time arrangement within the banking period, the employer should ensure that daily working time is not shorter than four hours, and not longer than 12 hours, including overtime.

When working time is defined within the framework of working time banking, the beginning and ending date shall be specified in writing and made public by the employer. As of 1 January 2023 under Article 93 of Labour Code (Act 1 of 2012) the duration of the working time should also be specified by the employer. The maximum duration of working time banking is four months/16 weeks.

The maximum duration of working time banking is six months/26 weeks in the case of employees:

- working in continuous shifts;
- working in shifts;
- employed for seasonal work;
- working in stand-by jobs; and
- in special jobs at aviation; road transport; carriers and traffic control; and harbours.

The maximum duration of working time banking if justified by technical reasons or reasons related to work organisation and if there is a collective agreement in place is 36 months. Collective agreements can derogate from the above time banking to the extent stipulated by law. The maximum duration of working time banking that could be set by the collective agreement is 36 months if justified by technical reasons or reasons related to work organisation. Having the collective agreement terminated shall not affect work within the framework of working time banking in progress.

## Commentary

none

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Employer |
| **Involved actors other than national government** | Employer organisation Trade union |
| **Involvement (others)** | None |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Hungary: Working time flexibility, Restructuring legislation database, Dublin

Italy

# Working time flexibility

| | |
|---|---|
| **Phase** | Legislative Decree 14 September 2015, no. 148, Provisions to recast rules on social safety nets for workers in employment; Decree Law 28 September 2018, n. 109, Urgent provisions for the city of Genoa, the security of the national infrastructure and transport network, the 2016 and 2017 seismic events, work and other emergencies; Decree Law 25 May 2021, n. 73 Urgent measures related to the COVID-19 emergency, for businesses, work, young people, health and local services. |
| **Native name** | D.Lgs. 14 settembre 2015, n. 148, Disposizioni per il riordino della normativa in materia di ammortizzatori sociali in costanza di rapporto di lavoro; Decreto legge 28 settembre 2018, n. 109, Disposizioni urgenti per la citta' di Genova, la sicurezza della rete nazionale delle infrastrutture e dei trasporti, gli eventi sismici del 2016 e 2017, il lavoro e le altre emergenze; Decreto Legge 25 maggio 2021, n. 73 Misure urgenti connesse all'emergenza da COVID-19, per le imprese, il lavoro, i giovani, la salute e i servizi territoriali. |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Legislative decree n.148/2015, whole law; Decree Law 109/2018, article 44; Law Decree No. 73 of 25 May 2021

## Description

Legislative Decree no. 148/2015 reformed the whole set of rules concerning income support measures for people in employment (temporary unemployment benefits schemes in the form of short-time allowances). It abolished all previous norms and set up a

consolidated text envisaging the possibility for companies to have access to the following tools:

- the Ordinary Wage Guarantee Fund ('Cassa integrazione guadagni ordinaria', CIGO);
- the Extraordinary Wage Guarantee Fund ('Cassa integrazione guadagni straordinaria', CIGS);
- solidarity contracts;
- solidarity funds.

The main characteristics of the tools are described below:

- the Ordinary Wage Guarantee Fund (CIGO) is activated in case of suspension of, or reduction in, work activities due to temporary events that cannot be ascribed to the company. The maximum duration of benefits is 13 weeks, which can be extended up to 52 weeks;
- the Extraordinary Wage Guarantee Fund (CIGS) is activated for those companies staffed with more than 15 employees (or 50 employees in case of commercial businesses). The reasons for CIGS to be activated are:
  - business restructuring for a maximum period of 24 months (not necessarily consecutive) over a five-year period (to be counted from the date when such payment begins);
  - business crisis for a maximum of 12 months;
  - solidarity contracts for a maximum time span of 24 months (not necessarily consecutive), which can be extended up to 36 months (see below).
- Solidarity contracts are agreements concluded with the unions, mainly aimed at avoiding, in whole or in part, staff reductions through a shared reduction of working time (cut in average by up to 60%, and no more than 70% for each involved worker). The solidarity contracts can also be entered in a view to increase the staff, by accompanying the reduction of working time with the hiring of new employees on an open-ended basis (the so-called 'expansive solidarity contracts');
- Solidarity funds are set up through collective bargaining agreements concluded between union associations and employer organisations, with the view to protect workers who are not covered by either CIGO or CIGS and to support employers averagely employing more than five employees. Four main types of solidarity funds exist:
  - bilateral solidarity funds: they protect workers in employment in case of suspension of, or reduction in, work activities;
  - alternative bilateral solidarity funds: they apply to the craft and temporary agency work sectors;

- residual solidarity funds: they cover employers staffed with more than five employees in those cases where alternative solidarity funds are not activated. They are managed by the National Institute of Social Security (INPS) through the Wage Subsidy Fund (as of 1 January 2016);
- Territorial Cross-sectoral Fund of the Autonomous Provinces of Trento and Bolzano, covering specifically these provinces.

Wage Guarantee Funds were largely reformed by legislative decree 148/2015, one of the decrees implementing the so-called Jobs Act which has, among other things, eliminated the possibility of using the CIGS in cases of cessation of the company's production activity or of a branch of it, then reintroduced in 2018 by Decree law 109/2018.

In detail, it is possible to note other particularities, including:

- Share of contribution on wage (amount)
- Benefit (type and duration)
- Union/administrative procedure
- Reindustrialisation plan assessed along with union associations, company works councils (Rappresentanze sindacali aziendali, RSAs), and works councils (Rappresentanze sindacali unitarie, RSUs)
- Ordinary Wage Guarantee Fund (CIGO)
- Ordinary contribution: to be paid by the company, from 1.70% to 4.70% according to the sector and staff head count

Additional contribution: to be paid by the employer only for non worked hours, i.e. hours covered by CIGO:

- 9% up to 52 weeks over a five-year period (to be counted from the date when payment begins);
- 12% between 53 and 104 weeks;
- 15% beyond 104 weeks.

For all the reasons: 13 weeks, which can be extended up to a maximum of 52. The company informs RSAs/RSUs (company works councils/works councils) or union associations of the reasons for the suspension of, or reduction in, working hours, of its extent and expected duration, as well as of the number of workers concerned. This communication can be followed by a joint assessment of the situation, aimed at protecting workers' interests. The procedure shall be finalised within 25 days (10 days for company staffed with up to 50 employees). The application shall be submitted to the National Institute of Social Security (INPS) within 15 days from the beginning of the suspension of, or reduction in, working activities.

Extraordinary Wage Guarantee Fund (CIGS) ordinary contribution: 0.90%,
of which 0.60% to be paid by the company and 0.30% to be paid by the worker. Additional contribution: borne by the worker:

- 9% up to 52 weeks over a five-year period (to be counted from the date when payment begins);
- 12% between 53 and 104 weeks;
- 15% beyond 104 weeks.

Business restructuring: 24 months  Business crisis: 12 months  Industrial and craft businesses belonging to the construction sector, and businesses belonging to the stone-cutting sector: 30 months. The company informs RSAs/RSUs or union associations of the reasons for the suspension of, or reduction in, working hours, of its extent and expected duration, as well as of the number of workers concerned. The application for the joint assessment of the company situation shall be submitted within three days. The application shall be forwarded to either the relevant territorial/regional office or the Ministry of Labour and Social Policies with a view to giving notice to the parties. The procedure shall be finalised within 25 days (10 days for companies staffed with up to 50 employees).  The benefit shall be approved by ministerial decree, to be adopted within 90 days from the submission of the application. In case of business crisis or business restructuring, the company shall submit to RSAs/RSUs or union associations a recovery plan or a programme outlining production, financial, or management problems due to external factors. The plan sets out the goals aimed at carrying on business activities and at maintaining employment.

Solidarity contracts for 24 months, which can be extended up to 36 months. Solidarity contracts can be entered into by all the companies falling within the scope of the applicable legislation on CIGS. Solidarity funds. Bilateral solidarity funds: ordinary contribution to be paid by the employer (two thirds) and by workers (one third) Alternative bilateral solidarity funds: the contribution cannot be lower than 0.45% of the amount of pay considered for the calculation of social security contributions  Wage Subsidy Fund: companies staffed with more than 15 employees: 0.65% (two thirds to be paid by the employer and one third to be paid by workers); companies staffed with 5–15 employees: 0.45% (two thirds to be paid by the employer and one third to be paid by workers)  Territorial Cross-sectoral Fund of the Autonomous Provinces of Trento and Bolzano: covered by the legislation on bilateral solidarity funds. Bilateral solidarity funds provide two types of allowances: the solidarity allowance (aimed at avoiding collective redundancies or several individual dismissals based on justified objective reasons) and the ordinary allowance (in case of suspension of, or reduction in, working activities for the reasons provided for by the applicable legislation on CIGO and CIGS). The duration of the allowance varies upon the reason behind its activation.

Workers whose working hours are expected to be suspended or reduced by more than 50% (calculated over a 12-month period) are contacted by the local employment centre with a view to drafting the so-called 'customised service pact', which outlines the personal employability profile pursuant to the standards set out by the National Agency for Active Labour Market Policies (ANPAL). In case workers fail to report to the employment centre, the latter adopts sanctions by giving notice – through the dedicated information system – to ANPAL and INPS. These sanctions range from a reduction in the amount of the allowance up to its complete elimination. Moreover, in case of a working activity carried out during the provision of the allowance, the worker shall give prior notice to the local INPS office.

Response to COVID-19

Wage guarantee funds were a key part of the Italian response to the COVID-19 pandemic, as companies could accede these funds for reductions in work activities related to the pandemic. COVID-19 pandemic was added as reason justifying access to these funds first by Decree Law No. 18 of 17 March 2020 and subsequently updated to follow the evolution of the pandemic. This provision has been suspended for most companies, and renewed exclusively for:

- Textile companies, which can accede 17 additional weeks of wage guarantee funds in the period from 1 July to 31 October 2021.
- Companies of national strategic relevance up to 1,000 employees, which can accede 13 additional weeks of wage guarantee funds until 31 December 2021.

The access to these support instruments is connected to the ban to economic dismissals, which was introduced by Decree Law No. 18 of 17 March 2020. The ban prohibited the economic dismissal of employees and suspended collective dismissal procedures in order to foster labour hording and to avoid mass layoffs due to COVID related reasons. The ban was initially set for 60 days, but subsequently extended up to 1 July 2021 for most companies, and to 31 December 2021 for some specific sectors (Ifor example those defined as of "national strategic interest"). The free access (i.e. without any economic contribution from the company) to wage guarantee funds was the instrument through which companies were supported in this ban.

## Commentary

During the period from 1 April 2020 to 31 August 2021, 6,293.2 million hours of CIGO and CIGS were licensed due to the COVID-19 health emergency.

In order to understand the magnitude of it, this value could be compared to the amount of licensed hours of CIGO and CIGS after the economic and financial crisis of 2008: 1,198.5 million hours (in 2010). Since then, they progressively declined until 2018, accounting for around 216 million.

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Companies Employee Employer National government |
| **Involved actors other than national government** | Employer organisation Public employment service Regional/local government Trade union Other |
| **Involvement (others)** | National Institute of Social Security (INPS) |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: 5<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Italy: Working time flexibility, Restructuring legislation database, Dublin

Latvia

# Working time flexibility

| | |
|---|---|
| **Phase** | Labour law |
| **Native name** | Darba likums |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Part D

## Description

Flexible working time is agreed in collective agreements or in individual employment contracts.

Flexible working arrangements should comply with the general norms on working time and rest time of the labour law. Normal working time should not exceed 40 hours per week (35 for workers aged between 15 and 18) or employees associated with a special risk (such as increased psychological or physical load or increased health and safety risks which cannot be prevented or reduced up to the permissible level by other labour protection measures).

The application of an aggregated working time regime is regulated by section 140 of the Latvian labour law. It may be applied if due to the nature of the work it is not possible to comply with the length of the regular daily or weekly working time determined for the relevant employee (seven or eight hours per day, depending on number of working days, 40 hours per week).

Under the aggregated working time regime all hours worked by an employee are considered and therefore paid. Hours worked are summed up (aggregated) in a determined period of time (accounting period), which could be either a month or a longer period if it is provided for by the collective agreement or the employment contract.

Only the work performed by the employee beyond the regular working time determined in the accounting period shall be regarded as overtime work. This is different from the regular working time regime, under which overtime work is the work performed by the employee beyond the statutory regular working time.

By law, under the aggregated working time regime, it is prohibited to employ an employee for more than 24 consecutive hours and 56 hours a week.

An employee who has a child under the age of eight or who needs personal care for a spouse, parent, child or other close family member or for a person living in the same household as the employee who, for a serious medical reason, requires substantial care or support, has the right to ask the employer to make adjustments to the organisation of working time. The employer is obliged to assess this request, and, no later than one month from the date of receipt of the employee's request, to inform the employee of the possibilities for adjusting the organisation of working time in the undertaking.

## Commentary

No information available.

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Not available |
| **Involved actors other than national government** | Employer organisation Trade union Works council Other |
| **Involvement (others)** | Elected employee representatives |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Latvia: Working time flexibility, Restructuring legislation database, Dublin

Lithuania

# Working time flexibility

| | |
|---|---|
| **Phase** | Labour code No XII-2603 |
| **Native name** | Darbo kodeksas Nr. XII-2603 |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Labour code (113, 114, 115, 116)

## Description

According to the Labour code, apart from fixed working time, the employer can establish the following flexible working time arrangements (article 113):

1. annualised hours – standard working hours for the entire reference period are fulfilled during the reference period;
2. flexible work schedule – requirement for the employee to be present at the workplace for certain hours of the workday and flexibility for the remaining hours;
3. split shift working time arrangements – work is done on the same day/shift with a longer break to rest and eat than the established maximum length of breaks to rest and eat;
4. individualised working time arrangements.

The Labour code stipulates as well that flexible working time arrangements may not violate the maximum working time limits, as mentioned below (article 114):

1. average working time, including overtime but excluding work done according to an agreement on additional work, may not exceed 48 hours per week;
2. working time, including overtime and work done according to an agreement on additional work, may not exceed 12 hours per workday/shift and 60 hours per week;

3. the law on safety and health at work includes specific provisions on working time arrangements for night workers, minors and employees who are pregnant, who recently gave birth or who are breast feeding;
4. working time cannot extend for more than six days over seven consecutive days.

In the case of annualised hours, work/shift schedules must be drawn up in such a way that they do not violate the maximum working time of 52 hours per week (article 115).

Where a flexible work schedule is in place (for all or just a few days of the working week), the beginning and the end of the workday is set by the employee according to the following rules. The employer establishes the fixed hours of the workday during which the employee must work at the workplace. This working time may only be changed upon notifying the employee at least two working days in advance. The flexible hours of the workday can be carried out at the discretion of the employee, before or after the fixed schedule. With the employer's consent, any flexible hours of the workday that were not carried out may be transferred to another working day, provided that the maximum working time and minimum rest period requirements are not infringed upon (article 116).

Amendments of Labour Code have been introduced (Article 113) by Law No XIV-1189 which came into force since 1 August, 2022 by making it mandatory that an employer must comply with a request to work at the working time preferred by the worker when requested by: - a pregnant or recently delivered employee, - an employee who is breastfeeding or has recently given birth, an employee with a child under eight years of age and - an employee who is a single parent with a child under fourteen or a disabled child under eighteen years, - a worker who, at his/her request, submits a request based on a medical opinion on his state of health or on the need to care for a member of his family or for a person living with him Provided that this does not involve excessive costs for the employer on grounds of industrial necessity or the particularities of the organisation of the work (par 1, Article 113);

Law No XIV-1189 clearly and strictly stipulates that workers must work at the times set out in their work/shift schedules, which specify the starting and ending times and days of work (par 4, Article 113 of the Laboru Code valid since 1st of August, 2022).

## Commentary

Article 51 of the labour code specifies that changes affecting the ownership of a company - changes in subordination, shareholder or name; merger; subdivision; division or merger of an employer into another company, institution or organization; or restructuring do not alter the terms of employment for employees, including working time arrangements.

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Employee Employer |
| **Involved actors other than national government** | Trade union Works council Employer organisation |
| **Involvement (others)** | None |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Lithuania: Working time flexibility, Restructuring legislation database, Dublin

Luxembourg

# Working time flexibility

| | |
|---|---|
| **Phase** | Short-time work |
| **Native name** | Chômage partiel |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Art.L.511-1 to Art.L.511-15, Art.L.166-2, Art.L.513-3, Art.L.631.2

## Description

The legislation provides four short-time work arrangements to help companies facing economic difficulties:

Short-time work due to economic dependence

The short-time work scheme due to economic dependence (Chômage partiel pour lien de dépendance économiques) aims at businesses facing economic difficulties following the loss of one or more of their main customers or due to difficulties encountered by their customers. It can be applied to businesses which primarily work for another business whose amount of orders has dropped significantly or who have cancelled the existing contract; work for one or more other businesses (e.g. through subcontracting) which are in turn required to resort to short-time work in Luxembourg.

Short-time working due to cyclical economic problems

The short-time work scheme in the event of cyclical economic problems (Chômage partiel pour problèmes économiques  conjoncturels) is intended to support businesses within crisis-stricken sectors and encountering economic difficulties. This scheme is aimed at businesses belonging to a sector declared to be in crisis by the government on the basis of analysis provided by the Conjuncture Committee (Comité de

conjoncture). To avoid exposing Luxembourg's businesses to a loss of confidence of their suppliers and creditors, the list of sectors in crisis (determined by its NACE code) is not published.

Short-time working due to structural economic problems

The scheme for short-time work due to structural economic problems (Chômage partiel pour problèmes économiques structurels) is intended to support business encountering structural difficulties. Before applying for this scheme, the employer must consult the secretariat of the Conjuncture Committee (Comité de conjoncture) to check that the problems encountered are recognised as being of structural economic nature. The employer must also draw a restructuring plan at the request of the secretariat.

Short-time working in the event of force majeure

The short-time work scheme in the event of force majeure (Chômage partiel en cas de force majeure) can be applied in exceptional circumstances to businesses which encounter economic difficulties following the occurrence of an event beyond their control and which prevents the continuation of their normal economic activity.

Main rules

In any cases, businesses that make use of short-time work commit not to lay off employees for economic reasons.

The employer has to submit an application for short-time work to the secretariat of the Conjuncture Committee (Comité de conjoncture). The form must be duly signed by the employer and by the staff delegation. By signing the form, the staff delegation acknowledges that the employer has received the delegation and informed them about the application for short-time working. If the company employs fewer than 15 employees or does not have a staff delegation, each employee concerned must sign the form individually. The employer also has to inform and consult the trade unions until the next work place elections in the case of businesses bound by a collective agreement.

Since a reform adopted on 23 December 2016 (Loi du 23 décembre 2016 portant modification des articles L.511-5, L.511-7, L.511- 12 and L.631-2 du Code du travail), the permission to mobilise the provisions concerning short-time work can be granted for a maximum of 12 months instead of 6 months, to give more flexibility to companies to overcome their economical difficulties. Short-time work can only be granted for a maximum of 1,022 hours per year and per full-time employee. For persons working on a part-time basis, the limit of 1,022 hours are pro-rated. This provision abolished, since 2017, the former rule that within a single month, the employer could not reduce the hours

worked by an employee on short-time working by more than 50 % of working hours.

During the period of short-time work, the employer pays each employee the salary due for every hour worked and a compensatory allowance corresponding to:

- at least 80 % of the normal salary for inactive hours;
- at least 90 % of the normal salary if the worker has participated in continuous vocational training during inactive hours.

Employers also have to continue to pay the following to the competent public administrations: social contributions and withholding tax on salaries paid for hours worked, social contributions and withholding tax on the compensatory allowance paid for inactive hours with the exception of the following employer's contributions: accident insurance contributions and contributions for family benefits.

Short-time work schemes can be applied to all employees with their workplace in Luxembourg, whether they are under a permanent employment contract or a fixed-term employment contract. Agency workers, interns and apprentices cannot benefit from this schemes. The amount of time off work under short-time working arrangements may not exceed 50% of the normal monthly hours worked.

Working time accounts allow workers to save up time in order to complete personal projects. After they were successfully introduced in the public sector in 2018, the national parliament voted on a bill to implement them – on a voluntary basis - in the private sector on 12 March 2019. The law stipulates that employees must have had a work contract for at least two years in order to be eligible for a working time account. Such accounts are limited to 1,800 hours, and additional holidays, late hours or up to five regular holiday days can be used to supply them. Fixed one month in advance, accounts have to be requested in writing and the employer must grant the request as long as there will be no negative impact on work-related matters. Working time accounts can be created through collective agreements or by inter-branch social dialogue agreements to be sent to the Minister of Labour, Employment and the Social and Solidarity Economy.

## Commentary

As of October 2023, 103 requests were introduced by companies to the Conjuncture Committee (Comité de conjoncture) and the Committee gave green light to 85 requests, which corresponds to a total of 8,140 employees.

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Employer National government |
| **Involved actors other than national government** | Employer organisation Trade union Works council National government Other |
| **Involvement (others)** | Conjuncture Committee (Comité de Conjuncture), a tripartite body consisting of members representing the government (the Ministry of Economy, the Ministry of Labour, Employment and the Social and Solidarity Economy and the Ministry of Finance), representatives of employers' organisations and trade unions. |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Luxembourg: Working time flexibility, Restructuring legislation database, Dublin

Malta

# Working time flexibility

| | |
|---|---|
| **Phase** | Chapter 452 - Employment and Industrial Relations Act, 2002; Subsidiary Legislation 452.110 - Overtime Regulations, 2012 (Legal Notice 46 of 2012 as amended by Legal Notices 109 of 2012 and 81 of 2015); The Work-Life Balance for Parents and Carers Regulations, 2022 (Legal Notice 201 of 2022) |
| **Native name** | Kap. 452 - Att dwar l-Impiegi u r-Relazzjonijiet Industrijali; Leġislazzjoni Sussidjarja 452.110 - Regolamenti dwar is-Sahra (Avviż Legali 46 tal-2002, kif emendat bl-Avviżi Legali 109 tal-2012 u 81 tal-2015); Regolamenti tal-2022 dwar il-Bilanċ bejn ix-Xogħol u l-Ħajja privata għall-Ġenituri u għall-Persuni li jindukra (Avviż Legali 201 of 2022) |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Article 42 of Chapter 452; Legal Notice 46 - whole legislation; Article 10 of Legal Notice 201 of 2022

## Description

Article 42 of the Employment and Industrial Relations Act 2002

In order to avoid redundancies this article allows for agreements between the employer and the employee or union representatives that provide for different conditions of employment as a temporary measure in order to avoid redundancies. These temporary measures which must always be approved by the director responsible for employment and industrial relations and reviewed every four weeks, may include among others a shorter working week.

Banking of Hours

Legal Notice 46 of 2012, namely the 'Overtime Regulations 2012', introduced a system of annualised hours. In each calendar year, this system allows an employer to bank overtime hours to a maximum of 376 of the normal annual working hours per employee. This practice allows employees to bank overtime hours and above the normal weekly working hours in the periods of higher work activity, which would then be redeemed during periods of lower activity, by having working hours below the normal weekly working hours. Prior to introducing such a system the employer should obtain the approval of the Director responsible for Employment and Industrial Relations. Unless otherwise agreed between the parties, any scheme shall not prejudice the provisions of any collective agreement present at the workplace.

This legislation among others protects employees whose contract of employment is terminated by providing the following measures:

- If the contract is terminated before the banked overtime hours could be redeemed, such hours are to be paid by the date of the next pay day at the applicable overtime rate in force on the date of termination. In the case of termination of part-time employees or full-time employees with reduced hours, any banked overtime hours shall only be paid at the applicable overtime rate if the total hours worked by such employees when averaged exceed the normal hours of work of a comparable full-time employee.
- If the contract is terminated and the employee worked less hours than the yearly average, the employer cannot claim a refund in respect of hours not actually worked.

Work-Life Balance for Carers and Parents

Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on Work-life balance for Parents and Carers, was transposed into Maltese law on 12th July 2022 through Legal Notice 201 of 2022: the Work-Life Balance for Parents and Carers Regulations, which came into force on the 2nd August 2022. The Regulations provide for flexible working arrangements for parents and carers, with 'flexible working arrangements' being defined as 'the possibility for workers to adjust their working patterns' (Article 3), Such flexible working arrangements could include (but are not limited to) the use of flexible working schedules such as flexitime; remote working; and reduced hours (Articles 3, 10).

Under Article 10 of L.N. 201 of 2022, workers with children aged up to eight years, and other carers, have the right to request flexible working arrangements for the purpose of such care. Employers are to respond to requests for flexible working arrangements within two weeks, giving reasons for refusal or postponement of the requested arrangements.

The article also allows for limiting the duration of such flexible working arrangements, with the worker retaining the right to request a return to the prior working arrangement if circumstances change, before the duration ends. The employer is to consider and respond to such a request taking into consideration the needs of both the worker and the employer.

Dismissal on the ground that a worker has exercised their right to request flexible working conditions is unlawful (Article 14).

## Commentary

Labour legislation and relating amendments are discussed at formulation stage in the tripartite Employment Relations Board (ERB). Members forming this board come from trade unions, employers' associations and the government.

Article 42 of the Employment and Industrial Relations Act 2002 The provisions in article 42 have been resorted to in various occasions as to avoid redundancies such as in the recent global financial crisis that affected the manufacturing industry. Past agreements involved temporary recourses to a four day week which meant a reduction in the weekly wage.

Banking of Hours Social partners are aware of the importance of having flexible working time arrangements particularly in activities which are conditioned by seasonality such as those associated with tourism, which is a very significant sector in the Maltese economy. The importance that social partners attach to flexible working hours can be seen in the fact that over the years, they unanimously defended the opt-out clause in the Working Time Directive that was negotiated by Malta before joining the EU. This clause permits workers in Malta to work more than the prescribed maximum of 48 hours per week if they consent to do so in writing.

Work-life Balance for Carers and Parents

Flexible working has, in recent years, been high on the agenda in social partners' discussions on the future of work, having more urgently come to the fore during COVID years (MCESD, 2020).

Some legal practitioners have noted that providing for such flexible arrangements, while admirable in principle, creates a challenge for HR specialists, who need to adapt or 'introduce new administrative processes' to 'ensure that their internal mechanisms' comply with the requirements and facilitate such measures (MK Malta, 2022).

## Additional metadata

| | |
|---|---|
| **Cost covered by** | None |
| **Involved actors other than national government** | Employer organisation Trade union Works council Other |
| **Involvement (others)** | Employment Relations Board; Department of Industrial and Employment Relations |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Malta: Working time flexibility, Restructuring legislation database, Dublin

Netherlands

# Working time flexibility

| | |
|---|---|
| **Phase** | Law on flexible work; |
| **Native name** | Wet op flexibel werken; |
| **Type** | Working time flexibility |
| **Added to database** | 07 August 2015 |
| **Access online** | Click here to access online |

## Article

Article 2

## Description

Flexible work

Employees with at least one year of service with an employer which employs at least 10 employees are entitled to ask their employer for an increase or decrease in their working hours (for example, a switch to or from part-time hours), they also have the right to request an adjustment of their working schedule and working place. The request must be made at least 26 weeks/ 6 months prior to the proposed change in working hours. In principle, the employer should honour such a request unless there is a significant business or service interest involved in not doing so. If the employer has ten or more employees they must decide on the employees request in wiring and with reason within a month. If there are fewer than ten employees, the employer must decide in writing and with reason within three months of the request. Should the employer fail to make a decision withing the time frames specified, the employment arrangement will be modified in accordance with the employee's request (Article 2(12)).

In the event of a reduction in working hours, there is in any event a significant business or service interest if the reduction:

- causes problems for the business for the reallocation of the hours;
- causes safety problems;

- causes roster problems.

In the case of an increase in working hours, there is in any event a significant business or service interest if the increase:

- leads to financial or organisational problems;
- is not supported by sufficient work;
- is not in line with an established formation or staff budget.

Unless unforeseen circumstance intervene, the employee may submit a new request one year after the employer has either accepted or denied such request. Furthermore, apart from the amount of hours, employees can request a change in the timing of the hours worked, if this is possible and in line with the activities of the company. In addition, employees are allowed to request a change of location at which they work. For example they are allowed to request placement at a different company's establishment, or to work from home.

Grounds for rejection by the employer for these kinds of requests are the same as for a requests for an increase or decrease in working hours. An employer may only refuse a request for adjustment of working hours request on the grounds of compelling (business) reasons. Similarly, it applies to a request or adjustment of working schedule/pattern However, the employer may unilaterally change the working schedule, if the interest of the employer outweighs the interest of the employee. The employer must balance the interests of both parties. The right to request an adjustment of working schedules is less strong than the right to ask for an adjustment of working hours.

## Commentary

This act is not specific to restructuring situations but applies generally.

Some employer's organisations are of the opinion that the act is difficult to execute for companies that are just above the employee threshold established in the act. For example if an employee wishes to work fewer hours, it can be difficult, but not impossible, to replace them. In such a case, an employer is obliged to either grant the employee's wish and search for partial replacement, or build a case as to why the employee can not work fewer hours, which can be a time consuming process.

The article doesn’t apply to employees who:

- Primarily provide services solely exclusively for households of the individual employing them for less than four days per week, this also includes providing care to household

members
- Works on the basis of a sea employment contract referred to in Article 694 of Book 7 of the Civil Code or an employment contract in sea fishing as referred to in Article 739 of the said Code.

The employer may not disadvantage the employee because the employee has asserted, in or out of court, the rights granted to them in this article, has provided assistance in this regard or has filed a complaint about this.

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Not available |
| **Involved actors other than national government** | National government |
| **Involvement (others)** | None |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: 10<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Netherlands: Working time flexibility, Restructuring legislation database, Dublin

Norway

# Working time flexibility

| | |
|---|---|
| **Phase** | Act on the obligation to pay wages during temporary redundancies; National Insurance Act |
| **Native name** | Lov om lønnsplikt under permittering (permitteringslønnsloven); Folketrygdloven |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

3, 3a (Act on the obligation to pay wages during temporary redundancies); 4-3, 4-7 (National Insurance Act)

## Description

Conditions for temporary lay-offs are established in basic agreements between the social partners and in case law. Access to unemployment benefits during temporary layoffs is regulated in the National insurance act (4-7) and accompanying regulations, while the obligation to pay wages is regulated in a separate act. Public sector employees are generally not qualified and temporary layoffs are not to be used in the public sector (with certain exceptions).

An employer can temporarily lay-off employees if there is a justifiable basis for this and provided that the enterprise has made reasonable efforts to avoid layoffs and that permanent dismissal is not indicated. Justifiable reasons may be a low influx of orders, financial problems, the need to repair machinery and so on.

The employer has to pay the temporarily laid-off employees for 15 days (from 2019). If the need to reduce the workforce is due to fire, accidents or nature, the duty to pay wages for 15 days does not apply. After the 15 days, the employer is exempt from paying salary in the period of temporary lay-off. This period can last up to 52 weeks (normally 26 weeks) during a period of 18 months. After this period, the employer must resume paying the

employees' salaries or dismiss the employee.

Employees who are temporarily laid-off are entitled to unemployment benefits in accordance with the National Insurance Act. This implies that employees also partly cover the costs of the temporary lay-off, as the unemployment benefits do not equal their usual salary. Employees shall be given in writing 14 days' notice of temporary lay-offs. Before temporary lay-off is decided, the employer should notify the public employment authorities.

There is also the opportunity to use part-time layoffs, for instance by reducing working hours. The conditions for doing so are the same as for full-time temporary redundancy and there is not any limitation on the number of hours it can be reduced to. However, if working hours are reduced by less than 50%, the employee will not be entitled to unemployment benefits.

## Commentary

Conditions for temporary lay-offs are established in the basic agreements (collective agreements at the cross-sectoral level) between the social partners and in case law. Temporarily laying-off is permitted if valid reasons make this necessary for the enterprise, but do not take place for more than 6 months unless the parties agree that a valid reason exists for this. The selection of employees is based on the seniority principle, but this principle can be departed from if there is due reason. Before giving notice of temporary lay-offs, the shop stewards shall be consulted. Before putting into effect temporary lay-offs for a longer duration, the enterprise should alternatively assess occupational skill upgrading measures according to the needs of the enterprise which may strengthen the competitive situation of the enterprise. Minutes of the consultations shall be taken and signed by the parties. Employees shall be given 14 days' notice of temporary lay-offs. The notice shall be given in writing. The maximum period of temporary lay-offs as well as the period during which the employer is obliged to pay the employees are frequently altered, for instance related to economical prospects.

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Employee Employer National government |
| **Involved actors other than national government** | Public employment service Trade union |

| | |
|---|---|
| **Involvement (others)** | None |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Norway: Working time flexibility, Restructuring legislation database, Dublin

Poland

# Working time flexibility

| | |
|---|---|
| **Phase** | Act of 26.06.1974 -Labour Code; Act of 11.10.2013 on special solutions related to the protection of jobs |
| **Native name** | Ustawa z dnia 26.06.1974 r. - Kodeks pracy; Ustawa z dnia 11.10.2013 r. o szczególnych rozwiązaniach związanych z ochroną miejsc pracy |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Article 129, 135, 136, 137, 138, 140(1), 143, 144, 145, 146, 150, 237(11a), 237(13a) -Act of 26.06.1974 - Labour Code; Article 3, 4, 5 - Act of 11.11.2013 on special solutions related to the protection of jobs

## Description

Polish labour law stipulates that working time must not exceed 8 hours in a 24-hour period and an average of 40 hours in an average five-day working week in an applicable reference period not exceeding 4 months.

Working time may be reduced below these norms for employees working in particularly arduous or harmful conditions by providing for breaks from work that count as working time or by reducing these norms; in the case of monotonous work or work at a fixed pace, breaks from work that count as working time may also be provided. The list of jobs involving strenuous or monotonous work must be determined by the employer after consultation with the employees or their representatives in the manner and in accordance with the principles defined in Article 237(11a) and (13a) of the Labour Code on consultation with the employees' representative and after consultation with a doctor responsible for the preventive health care of employees as described in Article 145 of the Labour Code.

There are also provisions that allow working time to be reduced in special circumstances, which are included in the Act on Special Solutions Related to Job Protection. This law applies to employers who have experienced a decrease in economic activity, defined as the sale of goods or services, calculated in terms of quantity or value, of no less than 15% in total, calculated as a ratio of total turnover for 6 consecutive months during a period of 12 months prior to the date of application for benefits. If the employer's situation meets the above conditions, an agreement can be reached with the trade unions (or with the employees' representative if there is no trade union at the workplace) to reduce working hours by a maximum of 50%. The remuneration of the employees concerned (up to the minimum wage) and the allowance for the reduction of working hours (up to the amount of the unemployment benefit) are financed by the Guaranteed Employee Benefits Fund (Fundusz Gwarantowanych Świadczeń Pracowniczych).

Amendments to the Labour Code were introduced in August 2013, allowing greater flexibility in working time arrangements.

The first change concerns the possibility of extending the reference period. Within any system of working time arrangements, the reference period (working time accounting period) may be extended up to 12 months if this is justified by objective, technical or organisational reasons. This option generally applies to the entire workforce of the enterprise. The other change was the introduction of flexitime, which means that the work schedule may provide for different starting times or specify the period within which the employee must start work (e.g. from 6 a.m. to 8 a.m.) This option is more personal and can be tailored to the needs of a particular employee.

Both schemes can only be introduced through agreements with employee representatives. If there are trade unions in a company, such an agreement must be made with them. In a non-unionised company, a similar agreement must be made with employee representatives. In the latter case, the employees' bargaining position is weaker, as these representatives do not enjoy any protection under Polish law (they are not the same as representatives - members of the works council, who only have information and consultation rights). The Labour Inspectorate must be informed no later than 5 working days after the agreement is concluded. There are also working time arrangements other than the basic one which contain some element of flexibility. The systems of working time organisation for extension of working time duration beyond 8 hours in a 24-hour period (art.135–138 and 143-144 Labour Code) are the following:

- work in an equivalent working time system, which provides for the possibility of extending the duration of work to 12 hours in a 24-hour period during a reference period not exceeding one month, or three months in particularly justified cases, and four months in the case of work dependent on the season or weather conditions (Art.

135 of the Labour Code).

- Work in an equivalent working time system, which consists in the supervision of equipment or where workers are required to be on call at certain times. This provides a limited possibility to extend working time to 16 hours in a 24-hour period during a reference period not exceeding one month, while retaining the right to rest during a period at least equal to the number of hours spent at work, regardless of the weekly rest period (Art. 136 Labour Code). In the case of workers employed in an equivalent working time system for guarding property or persons, as well as employees of fire brigades and company rescue services, the working time may be extended to 24 hours in a reference period not exceeding 1 month, which may be extended to 3 months in special situations and to 4 months for types of work dependent on the season or weather conditions. In this system, the worker retains the right to rest during a period at least equal to the number of hours worked, irrespective of the weekly rest period (art. 137 of the Labour Code).
- continuous work (work that cannot be stopped due to production technology or the need to continuously satisfy the needs of the population). This makes it possible to extend working time up to 12 hours in a day in some weeks within the average 43-hour weekly working time standard in the adopted reference period not exceeding 4 weeks (art. 138 of the Labour Code).
- Short-time working system, which may be applied to employees on the basis of their written request. In such a system, the employee may work less than 5 days a week, with a simultaneous extension of the daily working time up to 12 hours, within a reference period not exceeding 1 month (Art. 143 of the Labour Code).
- Weekend work system. This is applied on the basis of a written request by an employee for whom the working time system provides for work to be performed only on Fridays, Saturdays, Sundays and public holidays. In such a system, it is possible to extend working time, but not more than 12 hours at a time in a reference period not exceeding one month (Art. 144 of the Labour Code).
- Interrupted working time system (art. 139 of the Labour Code). This working time system may be applied if it is justified by the nature of the work or its organisation. The working time schedule must be decided in advance. It may provide for a maximum of one break from work in a 24-hour period. The break shall not be counted as working time. However, an employee shall be entitled to remuneration equal to half of the remuneration due for the time of the break. The break may not exceed 5 hours.

## Commentary

The introduction of the possibility to reduce working time on the basis of the act of 11.10.2013 on special solutions related to the protection of jobs was met with sharp criticism of trade unions and is not being used in practice. This is due to the low level of

basic wages, whose further reduction within the shortened working time schemes would in most cases be unacceptable for trade unions.

According to the latest data from the Ministry of Family, Labour and Social Policy (as of 27 April 2017), 2,366 companies have introduced agreements on flexible time arrangements between 23 August 2015 and 24 April 2017. Those were mainly medium-sized companies (753), followed by small (620), micro (573) and large companies (420). Most of the agreements were introduced in companies operating operating in manufacturing (885), wholesale and retail (366), and construction (223). There are no data available as to what kind of flexibility these agreements concern (extending the reference period or flextime arrangements). The number of such agreements is steadily increasing. There were 901 agreements until May 2014; latest data from 15 October 2015 show an increase with a total of 1,766 agreements.

The extension of the reference period results in the employees receiving less overtime pay. The relation between the extension of the reference period in some working time arrangement schemes (work in equivalent working time systems) and occupational health and safety is debated in academic literature (see for example Rączka, 2014). Although the extension of the reference period beyond the applicable working time system should be made 'in accordance with general principles for the protection of the safety and health of workers', it is allowed in working time arrangement systems which are already in themselves burdensome for the employee (Articles 136 and 137 of the Labour Code) or which entail difficult working environment conditions (Article 145 of the Labour Code).

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Employer National government |
| **Involved actors other than national government** | Trade union Works council Other |
| **Involvement (others)** | Labour inspectorate |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Poland: Working time flexibility, Restructuring legislation database, Dublin

Portugal

# Working time flexibility

| | |
|---|---|
| **Phase** | Labour Code (Law 7/2009 of 12 February); Decree-Law 220/2006 of 3 November |
| **Native name** | Código do trabalho (Lei 7/2009 de 12 de Fevereiro); Decreto-Lei 220/2006 de 3 Novembro |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Labour Code - articles 298, 298-A, 300 (1 and 4), 301 (1, 3 and 4), 305 and 306; Decree-Law 220/2006 of 3 November - articles 27, 33 and 60

## Description

Turnover

From January 2020 the legislation introduces an excessive turnover fee. The fee will be applied when companies exceed the average number of fixed-term contracts in each sector.

The measures will immediately apply to any new labour contracts, including duration reduction of the fixed-term contracts, from three to two years. These contracts can be renewed up to three times, as long as the total duration of the renewals does not exceed that of the initial contract period. Fixed-term contracts for permanent needs will be allowed when hiring people who have been unemployed for more than 24 months. The possibility of hiring on a permanent basis when launching a new activity of uncertain duration, or when opening a new establishment, will be limited to companies with fewer than 250 employees. Moreover, temporary agency employment contracts will be allowed a maximum of six renewals.

Temporary reduction of working hours/suspension of employment contracts

The employer may temporarily reduce the normal working hours or suspend the employment contracts for market reasons, structural or technological shocks or other events that severely affected the normal activities of the company, provided that such action is crucial to ensure the viability of the company and maintenance of jobs (article 296).

To initiate the temporary layoff, the eligible company must notify the worker representatives with a notice period of 5 days, but the agreement of such representatives is no longer required (article 299).

The reduction may include (article 298): * One or more normal daily or weekly working hours and may involve different groups of workers, alternatively. * Reducing the number of employees corresponding to the daily or weekly working hours.

This scheme applies to cases in which such an action is applicable, i.e. when the company in question has been declared as facing economic difficulties or, with the necessary adaptations, the company is in the recovery process.

The reduction or suspension must have a predefined duration not exceeding six months. Only in the case of a catastrophe or other occurrence which has severely affected the normal activities of the company the reduction or suspension may have the duration of one year (article 301).

The initial six months may be extended for an additional six months as long as the employer notifies, in writing and in a substantiated manner, the worker representative. If there is no worker representative, the employer must notify each worker covered by this scheme (article 301).

During the reduction or suspension of the contract, workers are entitled to receive a minimum amount equal to 2/3 of the gross salary (without discounts) that they would receive if they were working normally; this will never be lower than the national minimum wage (which stands at €760 in 2023) and with the maximum limit of three times the national minimum wage (€2,280 in 2023). The 30% of the compensatory payment attributed to each employee is borne by the employer and 70% by the social security institution (article 305).

During the suspension or reduction period, the employee is entitled to maintain all its social security benefits, which are calculated considering their normal remuneration as well their rights relating to set vacation period and vacation and Christmas allowances, under the same conditions as if the same were rendering effective work. Regarding the Christmas allowance, 50% of the compensatory payment is borne by the social security institution and the remaining is directly paid by the employer (article 306).

The employer may only introduce a new reduction of the normal working hours or suspend the employment contracts once the previous period of suspension is over and at least half of the duration of that period has passed (e.g. if the initial suspension was for 6 months, a new one can only start three months after the last day of the 6 months period). This period could be shortened by agreement between the employer and the affected workers or their representative structures (article 298-A).

Partial unemployment

This is available to people who have applied for or are beneficiaries of unemployment benefits who start part-time work contracts (weekly working hours equal or higher of 20% and equal or lower of 70%, compared to a full-time work period) or self-employed work. Those falling into these categories are eligible once the wage or the income generated by the part-time activity either as self-employed or employee is lower than the unemployment benefit (article 27).

The benefit allowance corresponds to the difference between the amount of the unemployment insurance benefit increased by 35%, and the earnings resulting from the part-time activity as an employee. (article 33).

Partial unemployment benefit can be enhanced through compensation payments and pensions for occupational risks (article 60).

## Commentary

In September 2023,3,179 workers were affected by a reduction of working time while 3,737 employers used temporary layoff scheme (under the Labour Code). Compared with the previous month, both schemes cover more 1,066 and 2,215 employees, respectively. In total, in September 2023, 365 companies were involved in these measures, more 91 than in the previous month.

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Employee Employer National government |
| **Involved actors other than national government** | Trade union Works council Employer organisation |
| **Involvement (others)** | None |

| | |
|---|---|
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Portugal: Working time flexibility, Restructuring legislation database, Dublin

Romania

# Working time flexibility

| | |
|---|---|
| **Phase** | Labour Code, Law no. 53/2003, republished in the Official Gazette of Romania no. 345 of 18 May 2011 |
| **Native name** | Codul muncii, Legea nr. 53/2003, republicată în Monitorul Oficial nr. 345 din 18 mai 2011 |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Labour Code,52 (3), 53 (1) and (2), 122 (3) Law No 283/ 2022, 111 (2)

## Description

In cases of temporary business slowdown for economic, technological, structural or other similar reasons, there are three possibilities available to the employer in terms of working time flexibility:

1. After consultation with the trade unions or workers' representatives, the employer may reduce working time from five to four days per week, in case of business slowdown over periods exceeding 30 working days. This may come with a corresponding reduction of salary, until the reasons that caused the reduction of working time are gone. So, workers will be paid less than before, proportionally to the reduction in working time. Depending on the circumstances of the reduction in activity, the working time can be reduced for all workers, or only for some of them - for instance, workers in a specific department.
2. During business slowdown and/or temporary interruption of operations, employers may suspend the employment contract of workers. In this case, the employees who are affected must receive a compensation (an allowance for technical unemployment), paid by the employer, that should not be less than 75% of their usual salaries. During this period, the employees must remain available for the employer, should the employer

decide at any time to resume the activity. All social contributions have to be paid, except contributions to the unemployment insurance system. These latter contributions are not due because the employment is suspended during the period in which the employees receive the allowance for technical unemployment.

3. During periods of reduced activity, the employer has the possibility to grant paid holidays to compensate for the extra work to be done in the following 12 months. Normally, time off is granted after workers have provided overtime. This instrument enables the opposite: first, in periods of business slowdown, workers receive time off; and only after they perform extra work. It is used especially in shops and other economic entities with a large workload during holidays (for example, in shopping malls and supermarkets where, because of the large number of customers, employees are required to work more hours during holidays). The employees receive time off during less busy periods, then they work more hours in times of higher activity.

COVID-19 response Since March 2020, workers' indemnity of at least 75% of their base salary during suspension of employment or reduction of activity due to the crisis, is covered by the unemployment insurance budget up to a maximum of RON 5,429 (€ 1,100) per month. Employers can, but do not have to, cover the difference if the indemnity is capped, to provide the worker with the 75% of their base salary. In order to receive the indemnity, employers have to submit a payment request to the local unemployment agency. The indemnity is subject to tax and social security contributions. The tax and social security contributions are covered by the employer.

Starting with 1 July 2021, the technical unemployment benefits are no longer paid from the state budget, and employers wishing to apply the measure of technical unemployment have to bear its own budgets. The facility has been extended successively since the beginning of the pandemic, and the last deadline for the possibility of receiving this state support due to the pandemic is 30 June 2021, in accordance with the Government's Emergency Order no. 211/2020. The governmental wage indemnity for suspended or reduced activity is eligible for companies suffering from at least 25% reduced turnover due to the COVID-19 crisis.

Furthermore, a law for 'paid leave when schools are closed under exceptional circumstances' has been approved by the government (Law no. 19/2020). The law aims at allowing at least one parent at home with children while the schools are closed.

The law states that: * Paid leave is granted only if the tasks associated with the employees' roles cannot be performed in 'working from home or teleworking conditions. * Paid leave can be granted to only one of the parents, and only if the child in care is of maximum 12 years of age (or 18 years of age for children with a disability), who are formally registered as attending courses in a school. * In some sectors, the parent's request for leave is

conditioned by the employer's acceptance (national energy system units, operating units in the nuclear sectors, continuous fire units, health and social care units, telecommunications, public radio and television, rail transport, units that ensure the public transport and sanitation of the localities, as well as the supply of the population with gas, electricity, heat, and water). * During such leave, employees will be entitled to a payment of up to 75% of the employee’s base salary, but not more than 75% of the average gross salary in the economy. The allowance is subject to personal income tax and social security contributions (that is personal income tax, social security contribution, health insurance contribution and work insurance contribution). The net value of the allowance paid by the employer (the amount actually received by the parent) can be recovered from the Guarantee Fund for the payment of salary claims; the corresponding personal income tax and the social security contributions are borne by the employer. To recover the net allowance, employers should submit a request to the local, or to the Bucharest's, unemployment agency. This applies to all employees with children in their care.

## Commentary

Besides these legal developments, some decisions of the Supreme Court in Romania seem to emphasise the flexibility of contractual arrangements regarding working time. Thus, for example, the days established by law as official public holidays are not working days; using employees during these days is a breach of the law. However, the High Court of Cassation and Justice established by Decision 22/2015 of 19 October 2015 that the act of the employer to use workers on public holidays does not meet the elements of an offence if the employer has fulfilled the obligation to provide compensation with time off.

Law no 283/2022 clarifies working time, specifying that the work schedule is the employer's way of organising work, which determines the hours and days when work begins and ends.

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Employer National government |
| **Involved actors other than national government** | Trade union Other |
| **Involvement (others)** | Workers' representatives, in case there is no trade union |

| | |
|---|---|
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Romania: Working time flexibility, Restructuring legislation database, Dublin

Slovakia

# Working time flexibility

| | |
|---|---|
| **Phase** | Labour Code |
| **Native name** | Zákonník práce |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

52, 87a, 87 (2), 97 (7), 142 (4), 143 (1) (4), 250b, 252c; 142 (5), 142 (6), 142a

## Description

In cases where an employer outlines, in a written agreement with employees' representatives, substantive operational reasons that prevent them from designating work to an employee, that employee is entitled to wage compensation. The amount of this compensation is stipulated in the agreement and must be, at minimum, 60% of their average earnings.

Another option allowing flexibility in case of substantive operational reasons that prevent the employer from designating work to an employee is the implementation of a working time account. It must be agreed in written with employees' representatives (also in the collective agreement) and cannot exceed 30 months. An employer is obliged to pay an employee the basic wage component corresponding to the employee's determined weekly working time. The employee is obliged to complete any working hours owed to the employer without undue delay, when the employer is in a position to provide them with work again.

Based on a collective agreement or an agreement with employee representatives, an employer may distribute working time unevenly to individual weeks over a period of 4-12 months. Working time may, however, not exceed 12 hours within 24 hours. An employee may be requested to work overtime for up to 150 hours per calendar year.

In relation to the COVID-19 pandemic, new short-time working schemes have been made available via Measures 1-3 included in the First Aid package. Also the use of working from home significantly increased during the pandemic. Since 4 April 2020, according to the amendments to the Labour Code, employers are entitled to order eployees to work from home and employees have the right to work from home during the pandemic. Since 1 March 2021, working from home and telework is newly regulated in more details. For instance, regulates the right of employees to disconnect.

On March 1, 2022, financial support is provided to the employer in case of restriction of his activity (reduction of assigned work by at least 10% for at least one third of the employees). The support serves to cover part of the employer's costs for compensation of the employee's wages in the employment relationship. Support from the state is provided in the amount of 60% of the employee's average hourly earnings. The employer participates in the reduced work time by additional payment of the employee's wage compensation in the amount of at least 20% of his average earnings. The employee thus receives wage compensation in the amount of at least 80% of the average wage, thereby participating in reduced work time by accepting a maximum of 20% lower earnings. Support is provided during short-time work, for a total of no more than six months during 24 consecutive months.

## Commentary

According to Informačný systém o pracovných podmienkach (ISPP) 2016, by Trexima s.r.o. and the MPSVR SR, agreements on the implementation of a working time account were concluded in 6.0%, of short-time working in 8.3% and of flexible working time in 24.2% of the surveyed companies in the business sector (3,380 companies with 678,922 employees). However, according to agreements concluded by OZ Kovo (Metal union), mainly in mechanical engineering, automotive and electric sectors, working time account was agreed in 19.8%, flexible working time in 49.3% and short-time working in 29.5% of surveyed companies in the sample. Figures indicate increasing working time flexibility in comparison with 2013 data. In 2019, working time account was implemented in 4.6%, short-time working in 6.5% and flexible working time in 21.5% of 3,823 companies (678,177 employess) included in the survey. ISPP did not provide any data for 2020.

As far as working from home is concerned, according to available information, up to 80% of employees were working from home in companies in 2020.

In 2022, a total of €20.72 million were used for support during reduced working hours, within which 124 employers and 85,413 employees were supported (mainly in industry and manufacturing enterprises).

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Employer |
| **Involved actors other than national government** | Trade union Works council Employer organisation |
| **Involvement (others)** | None |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Slovakia: Working time flexibility, Restructuring legislation database, Dublin

Slovenia

# Working time flexibility

| | |
|---|---|
| **Phase** | Employment Relationship Act (ZDR-1) |
| **Native name** | Zakon o delovnih razmerjih (ZDR-1) |
| **Type** | Working time flexibility |
| **Added to database** | 05 August 2015 |
| **Access online** | Click here to access online |

## Article

49, 54, 65-67, 138, 144-146 and 148-149

## Description

Overtime work may not exceed 8 hours a week, 20 hours a month or 170 hours a year. A working day may not exceed 10 hours. With the worker's consent, overtime work may exceed the annual time limitation, but may not exceed 230 hours a year and the worker has a right to refuse such a request without being exposed to unfavourable consequences due to refusal. Upon the employer's request, the worker is obliged to perform overtime work:

- in cases of an exceptionally increased amount of work,
- if the working or production process requires continuation in order to prevent material damage or threat to the life and health of people,
- if this is necessary to avert damage to means of work,
- if this is necessary in order to ensure the safety of people and property or traffic safety,
- in other exceptional, urgent and unforeseen cases stipulated in an act or by a branch collective agreement.

As a rule, the employer must require the worker to carry out overtime work in writing prior to the commencement of the work. Should it not be possible, due to the urgency of the overtime work to be performed, the worker may be allocated overtime work orally and a written order shall subsequently be given to the worker no later than by the end of the

working week after the completion of the overtime work.

Overtime work may not be imposed if the work can be performed within the full working time by means of appropriate organisation and distribution of work, distribution of working time by introducing new shifts or employing new workers.

An employer may not impose work exceeding full-time work on:

- a female or male worker in order to protect them during pregnancy or parenthood,
- workers aged 55 or more,
- a worker under the age of 18,
- a worker whose health condition might deteriorate according to the written opinion of a doctor,
- a worker whose full working time is shorter than 36 hours a week due to a job that involves higher risk of injuries or health impairment,
- a worker who works part-time in accordance with the regulations on pension and disability insurance, regulations on health insurance or other regulations.

The distribution and the conditions for temporary redistribution of working time are to be defined in the employment contract. Before the beginning of a calendar or business year, the employer shall provide the yearly distribution of working time and notify the workers as well as the company trade union. In the case of regular distribution, full working time may not be distributed to fewer than four days a week. If a worker proposes a different distribution of working time, the employer must justify their decision in writing.

The working time may be distributed temporarily and irregularly. The employer must inform the workers in writing of the temporary redistribution of working time no later than one day prior to the distribution of the working time. In the case of irregular distribution and temporary redistribution of full working time, the working time may not exceed 56 hours a week.

In the case of irregular distribution and temporary redistribution of working time, full working time is considered as an average working obligation during a period that may not exceed six months. Trade unions, the works council or the workers' representative at the employer have a right to be informed once a year about the distribution of working time, the performance of overtime work or the temporary redistribution of working time.

A worker who performed more working hours during a calendar year than are laid down for full-time work may, upon their request, have their surplus hours converted into full-time working days.

Prohibition of overtime work for certain groups also applies to redistribution of working time.

In the event that the employer temporarily cannot provide work to the worker, with the aim of preserving employment, the employer may temporarily lay-off the worker by written notice, but this period may not exceed six months in one calendar year. In this case, the worker is entitled to wage compensation in the amount of 80% of the wage basis (e.g. the average monthly salary which the worker received or which the worker would have received if working during the last three months).

If workers cannot word due to force majeure, they are entitled to 50% of the payment they would have received while working, but  not less than 70% of the minimum wage.

During the time of a temporary lay-off the worker is obliged to respond to the employer's invitation to come to work in a manner and under the conditions laid down in the lay-off letter. If requested by the employer during the time of temporary lay-off, the worker is obliged to undergo education in accordance with the requirements of the working process with the purpose of maintaining and/or improving the skills to perform the work under the employment contract, to keep employment and increase employability.

## Commentary

The state supported temporarily laid off workers and employees working part-time with partial wage compensations four times: during the financial crisis in 2009-2010, the COVID-19 pandemic 2020-2021, the energy crisis from January to June 2023, and disastrous floods in autumn 2023. The state support aimed to stabilise employment and support workers' income.

During 2009-2010, 65,819 people worked part-time, and 19,362 were temporarily laid off. In 2020-2021, the take-up of the temporary layoff (215,426 workers from March 2020 to June 2021) was more prevalent than short-time work (52,779 from June 2020 to September 2021). The study, prepared by the Analytical Department at the Ministry of Labour, emphasised the importance of both schemes in retaining jobs during the COVID-19 pandemic. The number of take-ups peaked twice, first in April 2020 (176,151) and again in November 2020 (93,892). Furthermore, subsidies in the event of quarantine and force majeure (98,835 people from March 2020 to March 2022) were essential in assisting employees who were unable to come to work owing to quarantine, childcare duties, or other restraints. According to the study, the crisis would result in higher unemployment without both measures (MDDSZ, 2022).

## Additional metadata

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|---|---|
| **Cost covered by** | Employer National government |
| **Involved actors other than national government** | Employer organisation Trade union Works council |
| **Involvement (others)** | None |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Slovenia: Working time flexibility, Restructuring legislation database, Dublin

Spain

# Working time flexibility

| | |
|---|---|
| **Phase** | Law 3/2012 of 6 July on urgent measures to reform the labour market; Royal Decree 1483/2012, of 29 October, approving the Regulations on procedures for collective dismissal and suspension of contracts and reduction of working hours; Statute of Workers' Rights (Royal Decree Law 2/2015); Royal Decree 608/2023 of 11 July, which implements the RED Mechanism for Employment Flexibility and Stabilisation |
| **Native name** | Ley 3/2012, de 6 de julio, de medidas urgentes para la reforma del mercado de trabajo; Real Decreto 1483/2012, de 29 de octubre, por el que se aprueba el Reglamento de los procedimientos de despido colectivo y de suspensión de contratos y reducción de jornada; Real Decreto Legislativo 2/2015, de 23 de octubre, por el que se aprueba el texto refundido de la Ley del Estatuto de los Trabajadores; Real Decreto 608/2023, de 11 de julio, por el que se desarrolla el Mecanismo RED de Flexibilidad y Estabilización del Empleo. |
| **Type** | Working time flexibility |
| **Added to database** | 08 May 2015 |
| **Access online** | Click here to access online |

## Article

Art. 13 of Law 3/2012; Art.16 Royal Decree 1483/2012; Art. 47 of Statute of Workers' Rights; Art 2,3,4 Royal Decree 608/2023

## Description

A temporary layoff plan is a special administrative labour procedure which can be executed due to failure of the business activity as a result of economic, technical, organisational or production problems. Since Royal Decree law 10/2010 was approved, it can be implemented irrespectively of the number of workers affected. Law 3/2012

eliminated the requirement of administrative authorisation. These measures are negotiated between the company and the employees' representatives at the workplace level. In the absence of workers' legal representatives, employees will be able to confer representation on a commission made up of a maximum of three members belonging to the most representative trade unions of the sector.

In temporary layoff cases, workers are entitled to unemployment benefits, while the enterprise must continue paying social security contributions.

In the case of working time reduction, workers are entitled to partial unemployment. In those cases, working time can be reduced between 10% and 70%.

Other measures related to working time flexibility include irregular working time distribution throughout the year and overtime. Since Law 3/2012 was enacted, 10% of the annual working time can be distributed irregularly throughout the year, thus increasing in some weeks the maximum working hours (40 hours). Previously the limit was 5%. With regard to overtime, the statutory maximum working day (nine hours) can be changed by means of collective bargaining up to a maximum of 80 extra hours distributed throughout the year. In addition, overtime can be compensated with rest.

Additionally, there are measures that include the possibilities of using working time reduction as a measure to reconcile work and family life. The reduction in working time in order to take care of children younger than eight years old or people with a disability can only be applied on a daily basis since Law 3/2012 was enacted. Previously it could be applied in relation to the working week or month. The worker has to advise the employer of his/her intention to reduce their working time 15 days before the date.

In 2023, the RED Mechanism for Employment Flexibility and Stabilisation was activated, which involves a series of measures to support companies in certain particularly complicated situations. The RED Mechanism constitutes an employment flexibility and stabilisation measure and is activated by the Council of Ministers for a given sector of the economy or for a given time cycle. It is an umbrella under which companies will be able to approve their ERTEs. The measures that can be authorised to the company (ERTE) are the temporary suspension of the employment contract or the reduction of the working day of the workers.

## Commentary

Since the financial crisis began in 2008, the number of workers affected by temporary dismissals dramatically increased. Nevertheless, the recovery of employment implies a decrease in the use of these measures. According to the statistics of the Ministry of

Employment, the number of workers affected by temporary dismissal has constantly decreased since 2012. That year, 300,713 workers were affected by temporary dismissal compared to 234,116 in 2013, 92,234 in 2014, 62,298 in 2015, 53,658 in 2016, 28,257 in 2017, 43,329 in 2018, and 47,571 in 2019. Nevertheless, we can observe a sensitive rise of workers affected in the last two years.

As far as working time reduction is concerned, a similar trend is observed. Since the onset of the financial crisis there was an increase in the use of those measures. In 2008 and 2009, 20,675 and 20,591 workers were affected, respectively, by working time reduction schemes, while in 2012 90,724 workers were affected by those measures. Since that year, the number of workers affected has constantly decreased (75,505 in 2013, 31,457 in 2014, 13,652 in 2015 and 8,570 in 2016, 8,427 in 2017, 3,610 in 2018, and 2,263 in 2019).

In 2018, 49,329 workers were affected by temporary dismissals (most of them in the manufacturing sector) and 3,610 by reduction of working time (most of them in services). In 2019, most of the temporary dismissals (78%) occurred in the field of industry. On the contrary, working time reduction schemes mostly occurred in the service sector (51%) followed by the industry sector (46%).

These instruments were key during 2020 to counteract the impact of the COVID-19 pandemic: 928,862 workers were affected by temporary dismissals or working time reduction measures, mostly in services sector (846,651). During 2021 (January-August), 929,687 employees were affected by these measures.

## Additional metadata

| | |
|---|---|
| **Cost covered by** | Companies Employer National government |
| **Involved actors other than national government** | Employer organisation Regional/local government Trade union Works council |
| **Involvement (others)** | None |
| **Thresholds** | Affected employees: No, applicable in all circumstances<br>Company size: No, applicable in all circumstances<br>Additional information: No, applicable in all circumstances |

## Sources

# Citation

Eurofound (2015), Spain: Working time flexibility, Restructuring legislation database, Dublin