

**THE REPUBLIC of AZERBAIJAN**

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**ABSTRACT**

of the Dissertation for the degree of Doctor of Philosophy

**COMPARATIVE ANALYSIS OF LEGAL REGULATION OF  
WORKING HOURS IN THE LABOR LAWS OF THE  
REPUBLIC OF AZERBAIJAN AND SEVERAL CIS STATES**

Speciality: 5609.01 – Labor Law; Social Security Law

Field of science: Law

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**Baku – 2024**

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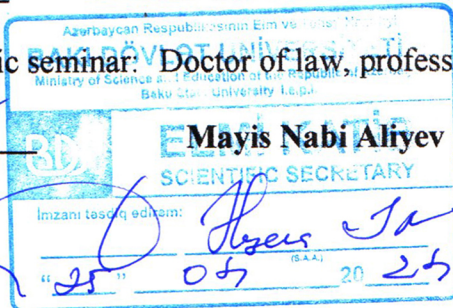
BFD 2.44 One-time Dissertation Council operating under Baku State University based on order No. 3-50/3-1-1 176/2023 of the Higher Attestation Commission under the President of the Republic of Azerbaijan dated September 14, 2023

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## General characteristic of the work

**Relevance of the topic and degree of preparation.** In the context of modern development in the Republic of Azerbaijan, the issue of regulating working time holds a crucial position. Particularly pertinent amid rapid economic expansion, the evolution of market dynamics, and globalization across various sectors of the national economy, this matter warrants attention. Advancing national labor legislation on working hours entails drawing upon successful practices from selected member states of the Commonwealth of Independent States (CIS). Hence, it is imperative to synthesize progressive innovations in labor laws from these CIS members and integrate key normative provisions into the Labor Code of the Republic of Azerbaijan (hereinafter referred to as the Labor Code of AR).

In the conditions of the modern development of the interaction of the CIS member states, which are quite close according to their legal systems, and strive for labor cooperation, the labor law during the study of the institute, such as working time, and labor relations It is important to study the directions of legal regulation of labor, their perspectives in the development of national labor legislation. Comparative jurisprudence, including the improvement of legal regulation in the field of labor relations and the harmonization of their labor legislation within the framework of the CIS as a whole, working time rights objectifies the evaluation of the similarities and differences of norms in the language. *"Because the modern legal systems of the CIS member states have deep historical roots, a previously existing common legal basis".<sup>1</sup>*

*"Comparative labor law studies the laws of creation and development of legal regulation of labor".<sup>2</sup>*

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<sup>1</sup> Qasimov, A.M., Cəfərov, Z.İ., Əkbərli, Ü.A., Şiriyev, E.F. Azərbaycan Respublikasının və Rusiya Federasiyasının qanunvericiliyi üzrə əmək müqaviləsi (müqayisəli-hüquqi təhlil). Bakı: Hüquq Yayın Evi, 2020. s. 5.

<sup>2</sup> Лушникова, М.В., Ратехина, В.А. Сравнительное трудовое право и право социального обеспечения. Ярославль: ЯрГУ, 2018. с. 3.

*“In modern conditions of globalized economy and law, the study of comparative labor law, strengthening of international economic and humanitarian relations becomes a necessary component of legal education”.*<sup>3</sup>

A comprehensive examination of working time as a legal concept enables the identification of specific characteristics inherent in various types of working hours and the working time regulations outlined in labor legislation, this knowledge serves as a foundation for enhancing their legal frameworks.

In connection with the above, the application of the comparative legal method in this research is of particular importance, because it helps to reconcile the models of legal regulation of working time adopted in these different countries, to reveal their specific features, this allows to study the positive (positive) and negative (negative) external experience of legal regulation in the field, as well as to deeply understand the originality of national labor law, its future development, improvement opportunities and traditions.

Here, the labor legislation of some CIS member states, especially the Russian Federation, Belarus, Kazakhstan and Uzbekistan, was chosen as the object of comparative research for a number of reasons. Because these countries were united by a common fate and were constituent parts of a single state - USSR for a long time. Currently, they are member states of the CIS, which ensures their future development in the conditions of interstate integration. It should be noted that the common efforts of the Republic of Azerbaijan and some CIS member states are included in the world integration processes, and this determines the need for the harmonization of labor legislation and its adaptation to international legal norms. Despite the codification of the labor legislation in force in the Republic of Azerbaijan and some CIS member states, the

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<sup>3</sup> Сравнительное трудовое право: курс лекций. Витебск: ВГУ имени П.М. Машерова, 2019. с. 5.

different approach of the legislation of those countries to the legal regulation of working time is of particular interest. Thus, unlike the Labor Code of some CIS member states, especially the Labor Code of the Russian Federation (hereinafter referred to as the Labor Code of RF), there is no legal definition of the concept of working time in the Republic of Azerbaijan. Norms on the types of working time and working regime are summarized in various sections and chapters of the Code, taking into account their nature and purpose. In this regard, taking into account the differences in approaches to the legal regulation of working time, the labor legislation of the Republic of Azerbaijan and some CIS member states the comparative analysis of the legal regulation of working time is particularly important.

Thus, based on the advanced experience of the CIS member states, including the Republic of Azerbaijan, a comprehensive comparative-legal study of the legal regulation of working time aimed at finding ways to improve labor legislation as a whole there is no research, which determines the selection of the dissertation topic.

Studying and researching the issue of legal regulation of working time, such as dissertation research, has always attracted research scholars in the field of labor law, and many areas of this problem have been analyzed. During the existence of the USSR, Soviet scientists N.G. Aleksandrov, V.S. Korotkov, L.Y. Ginsburg, M.Y. Goldstein, A.E. Pasherstnik, A.I. Protsevsky, G.A. Prudensky, L.I. Makhanova, L.A. Muksinova, G.K. Moskalenko, L.A. Syrovatskaya, N.F. Shatov, V.S. Venediktov, V.G. Vakulenko, in the post-Soviet period I.Y. Belitskaya, A.S. Chanyshv, V.V. Chijov, Z.V. Dzugoyeva, E.S. Gerasimova, A.S. Khamzin, G.V. Ivankina, V.S. Kozlov, V.I. Krivoy, A.A. Grechenkov, N.L. Lyutov, N.P. Nikitina, V.V. Mitrofanova, L.Y. Ostrovsky, A.Y. Petrov, E.P. Smirnova, I.O. Sniqiryeva, V.N. Uvarov, G.V. Khnikin and others analyzed in detail a number of scientific-theoretical and practical aspects of working time and working time regime and obtained important results they did. However, in our country (neither in the former Soviet Azerbaijan, nor in the independent Republic of Azerbaijan), the comparative analysis of the legal regulation of

working time according to the labor legislation of the Republic of Azerbaijan and some CIS member states has not been studied as a special problem. Many aspects of the problem related to working time and working time regime were discussed as a separate topic by O.C. Mammadov at the monographic research level, by I.I. Ismayilov, M.B. Rasulov, A.M. Gasimov, as well as Z.I. Jafarov and others within the framework of books and textbooks on labor law have been analyzed in a number of peer-reviewed scientific articles. However, these scientific studies did not cover the issues related to the legal regulation of working time in detail. Therefore, this dissertation is very relevant in the current conditions, both from a scientific-theoretical and practical point of view.

**The object of the research** is the public relations arising in the field of legal regulation of working time according to the labor legislation of the Republic of Azerbaijan and some CIS member states.

**The subject of the research** is the system of working time norms under the labor legislation of the Republic of Azerbaijan and some CIS member states.

**The purpose of the research.** The purpose of the dissertation work is to comprehensively study the issues related to the legal regulation of working time under the labor legislation of the Republic of Azerbaijan and some CIS member states on the basis of a systematic approach, as well as to provide concrete proposals and recommendations for improving the current labor legislation.

In order to achieve the mentioned goals, the following tasks were defined in the dissertation work:

1) to study the approaches to the understanding of working time according to the valid labor legislation of the Republic of Azerbaijan and some CIS member states and to reveal its legal nature;

2) to analyze the types of working time according to the labor legislation of the Republic of Azerbaijan and some CIS memberstates;

3) to comparatively analyze the understanding of the working time regime in the labor legislation of the Republic of Azerbaijan and some CIS member states and reveal the legal problems of its regulation;

4) to clarify their similarities and differences by conducting a comparative-legal analysis of the relevant norms of the labor codes of the Republic of Azerbaijan and some CIS member states regarding overtime work;

5) develop specific proposals for improving the working time norms of the labor codes of the Republic of Azerbaijan and some CIS member states.

**Methodological foundations of the dissertation work.** In the research process, formal-logical, systematic-structural analysis, complex approach to legal manifestations, comparative jurisprudence, etc. methods were used.

**The main provisions defended by the author are as follows:**

1. It is proposed to generalize different approaches to the concept of working time, which acts as the main category of labor law, and to give a different definition to working time based on the legislation of the studied states: Working time - the time when the employee performs his work duties in accordance with the disciplinary rules of the enterprise, the work schedule or the terms of the employment contract is the time he has to pay and is at the employer's disposal, as well as other time periods attributed to him by law. Working time is defined as one of the main institutions of labor jurisprudence, as defined by law or on the basis of law. During this time, the employee must fulfill his labor obligations in accordance with the internal disciplinary rules and the terms of the concluded employment contract. In accordance with the law and other normative legal acts, other time periods (idle periods without fault of the employee; paid breaks for warming up, etc.) also belong to working time.

2. Analyzing different types of working time, including the concepts of full (normal), incomplete (incomplete) and shortened working time, it is concluded that the normal duration of working time in its full meaning is shown in the conditions of full time

(normal working day). Other types of working time - part-time working time or reduced working time are essentially derived from full (normal) working time. In the process of analyzing the issue related to the types of working time, the classification of the types of working time according to different legal elements is given, and it is concluded that since the classifications of the types of working time are made according to numerous elements, such classifications can be considered conditional.

3. Working time regime is analyzed as an important factor of proper organization of work, increase of labor productivity and protection and provision of workers' health, as well as other labor rights. Approaching the concept of working time regime from a new position, the socio-economic, political-legal, and spiritual-moral importance of its correct and legal application is emphasized. By analyzing the labor legislation of the Republic of Azerbaijan and the CIS member states, the concept of the working time regime is approached from a new position, and it is characterized as the rule for the daily and weekly work and rest time norms determined by the Labor Code for employees to be distributed by the employer during the day, week, month and other calendar periods. .

4. Due to the lack of a specific norm regarding non-standardized working days (working hours) in the Republic of Kazakhstan and the Republic of Azerbaijan, and based on the analysis of the legislation of foreign countries, it is justified to add the provisions on non-standardized working days (working hours) to the Labor Code. A non-standardized working day (working regime) is considered to be a special working regime in which, in accordance with that regime, individual employees, if necessary, perform their labor functions for them by the employer's written or verbal order (order, decision) or by initiative or permission they can be involved in performing more than the specified working time period. Such a provision is based on the fact that in the Republic of Azerbaijan, there is an objective need to provide additional leave to employees working in areas where non-standard working days (working hours) are applied.



5. On the basis of the conducted comparative analysis, unlike the labor legislation of some CIS member states, it is determined that there are no norms directly regulating the variable (flexible) working time regime in the Republic of Azerbaijan, and in this regard it is proposed to add new provisions to the Labor Code. Variable (flexible) time is indicated by the author as the time of the start and end of the working day (work shift), and it is suggested that within its limits the employee is obliged to start work and finish it at his discretion. At the same time, it is justified that the accounting period of the working time, variable (flexible) working time in the variable (flexible) working time regime is determined by the labor contract or collective agreement and cannot exceed 6 months.

6. In contrast to the Labor Code of the Republic of Azerbaijan and the Republic of Uzbekistan, the labor legislation of the Republic of Russia, Belarus and Kazakhstan has provisions on the shift (multi-shift) work regime. Benefiting from the legislative experience of some CIS member states, shift (multi-shift) work is characterized as work in two or more shifts and related provisions are formulated. At the same time, in the thesis work, based on the analysis of the legislation of other states and the experience formed in our republic, it is justified to add new provisions related to the definition of the circle of employees who are not allowed to apply the consolidated accounting of working time in the Republic of Azerbaijan.

7. As a result of comparative analysis, it is justified to include norms regulating the shift-work method in the Labor Code, and the shift-work method is characterized as a special form of performing the labor process by the employee outside the place of permanent residence when daily return to the place of permanent residence is not ensured. At the same time, it is justified to apply the shift-work method for the purpose of shortening the period of construction, production, social and other intended repair or restoration works, when the place of work is significantly far from the place of residence or in regions with special natural conditions, as well as for the implementation of other economic activities.

8. In the labor legislation of some CIS member states, within the framework of the working time institution, the nature of overtime work is broadly analyzed and the definition of the scope of cases in which it is allowed to involve the employee in overtime work without obtaining the consent of the employee is justified. At the same time, it is proposed to add a norm that specifically defines the circle of employees who are not allowed to be involved in overtime work and the final limit of overtime work to the Labor Code. It is justified that an employee cannot be involved in overtime work for more than 120 hours a year, except for the work specified in the cases provided for in clauses "a" and "b" of Article 101 of the Code.

**The scientific innovation of the research** work is that the dissertation topic itself is studied for the first time in the jurisprudence of the Republic of Azerbaijan as a means of complex solution to a whole series of problems. The dissertation is the first complex monographic work covering the latest achievements of the labor legislation of the Republic of Azerbaijan and some CIS member states and subjecting the working time norms to a detailed study.

In the dissertation, for the first time, the labor legislation of the Republic of Azerbaijan and some CIS member states has been analyzed as a legal institution, existing gaps and contradictions in the legal regulation of working time have been identified, and justified proposals have been put forward in the direction of improving these norms. At the same time, in the research work, a number of new items were developed for identification in AR IP.

**Theoretical and practical significance of research.** The theoretical importance of the dissertation is expressed in its content in providing a doctrinal interpretation of a number of provisions of the labor legislation, in making theoretical generalizations in the work, and in expressing the author's position on most of the issues that have been addressed.

The results of the research can be useful when giving lectures on the Labor Law course at law faculties of higher educational

institutions, as well as when preparing textbooks, teaching aids and commentaries on labor law.

The practical importance of the work is that the results and suggestions reflected here can be important for the improvement of legislation regulating working time, as well as be used in future research and law enforcement activities.

**Approval and implementation of research results.** The results and innovations obtained in the dissertation were published in the form of scientific articles in various languages (Azerbaijani, Russian and English) in the authoritative scientific journals of Azerbaijan and other foreign countries on the subject of the research, and were reflected in the materials of important international and local conferences.

**The name of the institution where the dissertation work was performed.** The dissertation work was performed and discussed at the Department of Labor and Environmental Law of the Faculty of Law of Baku State University

**The total volume of the dissertation with a sign indicating the volume of the structural sections of the dissertation separately.** Dissertation work consists of introduction, 6 paragraphs, 3 chapters covering 3 points, conclusion and list of used literature. Introduction – 16425 marks, 9 pages, Chapter I – 106894 marks, 58 pages (1.1. – 37570 marks, 20 pages; 1.2. – 69220 marks, 38 pages (1.2.1. – 25307 marks, 14 pages; 1.2.2. – 19804 signs, 11 pages; 1.2.3. – 24109 signs, 13 pages); II chapter – 67867 signs, 38 pages (2.1. – 21235 signs, 11 pages; 2.2. – 46632 signs, 27 pages), III chapter – 45120 marks, 25 pages (3.1. – 10762 marks, 6 pages; 3.2. – 34237 marks, 19 pages), conclusion – 25292 marks, 14 pages, the list of used literature 12 pages, the dissertation covers a total of 261598 marks and 158 pages.

## OUTLINE OF THE WORK

In the introductory part of the dissertation, the relevance of the topic is justified, the object, subject, goals and tasks of the research, its methodological basis are determined, the scientific novelty of the

work is noted, the main propositions defended are formulated, the theoretical and practical significance is explained, and information is given about the approval and structure of the research results. .

Chapter I of the dissertation is called "**Understanding and types of working time according to the labor legislation of the Republic of Azerbaijan and some CIS states**" and consists of 2 paragraphs. The first paragraph examines the concept of working time. It is reported that the legal regulation of working time is based on Article 37 of the Constitution of the Republic of Azerbaijan, International Labor Organization Convention No. 47 "On Reduction of Working Time to 40 Hours a Week" (1935) and Recommendation No. 116 "On Shortening Working Time" (1962).

Working time reflects the moment of the labor process and acts as a quantitative measure of this process. But this does not include all the time of labor activity for the production of material goods. So, for example, workers spend their labor not only in enterprises, departments and organizations, but also in the household. Working time, which is one of the important institutions of labor law, includes the labor activities of employees and employers. The right to work is realized through the conclusion of an employment contract.

Every modern state, taking into account the physical and social limits of working time, determines its duration in such a way that it ensures human health and safe working conditions, because the comprehensive development of the personality is associated with it. However, this is not enough to define the concept of working time. It should be noted that the concept of working time is important for allocation and efficient use. In order to properly allocate working time and use it rationally, it is necessary to know what it consists of.

Having studied the approaches available in the scientific and educational literature on labor law related to the concept of working time, the claimant notes that both in the Republic of Azerbaijan and in the CIS countries, working time is an important socio-economic and legal measure that objectively reflects the measure of labor in society. is a category.

As a result of the comparative analysis, it was determined that although the succession of previously effective labor legislation has a certain importance in the development of the national labor legislation of the AR and some CIS member states, their development at the modern stage is based on the constitutional provisions of those states as well as the ILO Conventions. .

The applicant points out that the legal definition of the concept of working time should be included in the current labor legislation. Because clarifying the legal essence of the concept of working time serves the purpose of in-depth and detailed assimilation of other institutions of labor law. For this purpose, in the Labor Code of the Republic of Kazakhstan and Article 89 of the Labor Code of the Republic of Azerbaijan, it is proposed to establish the legal definition of the concept of working time in the following content: "Working time - during which the employee must perform his labor duties in accordance with the disciplinary rules of the enterprise, the work schedule or the terms of the employment contract and the time at the disposal of the employer, as well as other periods of time attributed to him by law".

The second paragraph explores "Types of Working Time". As a result of the comparative analysis, it was determined that the labor laws of all the studied states do not approach the issue of types of working hours from the same position. However, in the science of labor law, as well as in scientific and educational literature, types of working time such as full (normal) working time, shortened working time and part-time working time are distinguished with relative differences.

While the legal definition of full-time work is given in the first part of Article 89 of the Republic of Azerbaijan, such a concept does not exist in the Labor Codes of the studied states. The firstpart of Article 89 of the Republic of Azerbaijan can act as an example to fill this gap in those states.

In contrast to Labor Code of AR, the term "normal working time" is used instead of the term "full-time" in the labor legislation of the studied states. In accordance with the labor codes of the Republic of

Azerbaijan, Russian Federation, Belarus, Kazakhstan and Uzbekistan, the duration of the weekly normal working time corresponding to the daily normal working time cannot be determined more than 40 hours. This is the maximum permissible length of working time and applies to all employees. If we compare the second and third parts of Article 89 of the Republic of Azerbaijan with the similar norms of the Russian Federation, Belarus, Kazakhstan and Uzbekistan, we see that they differ significantly from each other. The difference is that their legislation does not use the term "normal working day".

The applicant notes that although one of the independent types of working time is reduced working time, the labor codes of none of the studied states have provided a legal definition of reduced working time. Nevertheless, its essence and characteristic features have been determined in the scientific and educational literature on labor law.

Articles 91, 92 and 93 of the Labor Code of the AR, 92 of the Labor Code of the Russian Federation, 69 of the Labor Code of the Republic of Kazakhstan, 113 and 114 of the Labor Code of the Republic of Belarus, 116, 117 and 118 of the Labor Code of the Republic of Uzbekistan are dedicated to the shortened work-day.

According to the applicant, short-time working day is a type of working time, which is paid in full, with the duration equal to full-time (normal working time). The main purpose of applying this type of working time is to protect the health of workers working in different fields of production, in different professions and positions, as well as to ensure their constitutional labor rights.

Issues related to part-time working hours are regulated by Articles 94 of the Labor Code of the Republic of Azerbaijan, 93 of the Labor Code of the Russian Federation, 118 of the Labor Code of the Republic of Belarus, 70 of the Labor Code of the Republic of Kazakhstan, and 119 of the Labor Code of the Republic of Uzbekistan.

In accordance with Article 74 of the Labor Code of the Russian Federation, in order to prevent the mass dismissal of employees and to save jobs, the employer has the right to apply part-time working hours for a period of up to 6 months, taking into account the opinion of the trade union organization, but there is no such norm in the Labor Code of the Azerbaijan Republic. Therefore, it is considered appropriate to include this norm in the labor legislation of our country.

It should be noted that in addition to some relative differences, there are also certain similarities in the content of the relevant norms of the labor codes, which are given a comparative analysis in parallel with the Labor Code.

Compared to the labor legislation of the Republic of Azerbaijan and the Russian Federation, the labor legislation of the Republic of Belarus regulates issues related to part-time working hours in more detail. Thus, as a result of the comparative analysis, it was concluded that part-time working time includes all the legal parameters of full (normal) working time in terms of its legal consequences, but it differs from shortened working time to a certain extent. Although part-time work has fewer hours in terms of the number of working days and working weeks than full-time work, it does not have any negative effect on labor productivity and labor efficiency. On the contrary, due to some of its features, it helps employees not get tired of work and their health remains stable.

Full-time working time (the normal period of working time established by law) is the time when it is prohibited to increase this standard of working time. However, in a specific enterprise, for example, it may be allowed to reduce its term according to the terms of the collective agreement.

The refusal of one of the parties to determine part-time working hours cannot be considered as a violation of the rights of the other party. Thus, the employer has no right to evaluate the employee's refusal to work part-time as a violation of labor discipline. The employee's refusal to conclude an agreement on the determination of part-time working hours is in accordance with international legal standards of labor rights. According to the ILO Convention No. 175

"On the Protection of Part-time Workers" (1994), states are obliged to ensure voluntary transition from full-time to part-time work and vice versa.

The second chapter of the dissertation entitled "**Definition and types of the regime of working time according to the labor legislation of the Republic of Azerbaijan and some CIS states**" consists of two paragraphs. In the first paragraph, which is called "The concept of the working time regime", the concept of the working time regime is approached from a new point of view and it is concluded that the correct application of the working time regimes and the compliance of various regimes with the requirements of the legislation will ensure the correct organization of work, the improvement of labor productivity and the health of employees, as well as other it is an important factor in the protection and provision of labor rights.

As a result of comparative analysis, it was determined that the Republic of Azerbaijan and the majority of the CIS member states do not have an understanding apparatus of the regime of working time in the IP, and we consider this as a gap in the legislation of the respective states.

In the IP of some CIS member states where the concept of working time regime exists, as a rule, it has not been honestly specified. Article 123 of the Labor Code of the Republic of Belarus is devoted to the definition of the working time regime. A similar concept is not provided for in the IP of the Republic of Kazakhstan. The concept of "Working time regime" in Article 120 of the Labor Code of the Republic of Uzbekistan is similar in many respects to the similar concept provided for in Article 100 of the Labor Code of the RF. However, the content of those concepts allows us to comment on the incomplete legislation of these states, including the lack of precise regulation of labor relations. In this regard, we consider the Article 95 of the Labor Code of the Republic of Azerbaijan acceptable, which includes the definition of the working time regime and we assume that this norm can be an example for the Labor Code of other CIS member states.

Taking into account the importance of the concept of the



working time regime for labor law and benefiting from the positive legislative experience of the Republic of Belarus, we consider it appropriate to add a new part to the labor codes of the studied states, including Article 95 of the Labor Code of Azerbaijan Republic, with the following content: "Working time regime – is the rule of distribution of the daily and weekly working time and rest time norm for employees determined by this Code by the employer during the day, week, month and other calendar periods".

In the second paragraph of the second chapter of the dissertation work, "**Types of working time regime**" was studied.

As a result of the comparative analysis, it was determined that, unlike the CIS member states, Article 96 of the Labor Code of the Republic of Azerbaijan stipulates one type of working time regime, "Consolidated accounting of working time", a special article containing different types of working time regime (norm) does not exist. In addition, in the Labor Code of AR, non-standardized working day (working mode), variable (flexible) working mode, dividing the working day into parts, time method, etc. such types are not regulated at the level of labor legislation and are considered as gaps in the AR Labor Code.

The conducted comparative analyzes show that there is a serious need to apply the non-normative working day regime, as well as to compensate it with additional leave. In this regard, in the AR Labor Code we consider it appropriate to add a new article with the following content: "Article. Unstandardized working day.

1. Unstandardized working day – this is a special work regime, according to which individual employees, if necessary, by the written or verbal order (order, decision) of the employer or with the initiative or permission of the employer, perform their labor functions beyond

the working time period established for them and they can also be involved in performing in excess of time.

2. Working beyond the statutory working time norm on a non-standard working day is not considered overtime work, and no additional wages are paid for this work.

3. Unstandardized working day is compensated by granting additional leave.

4. The list of employees working in non-standard working hours is approved by the relevant executive authority".

If such a norm is included in the Labor Code of the Republic of Azerbaijan, the norm regulating the additional leave granted to them must also be included in the Labor Code of the Republic of Azerbaijan. Therefore, we consider it appropriate to add a new article with the following content to the Labor Code of AR: "Article. Additional leave due to irregular working day.

Employees working on irregular working days are given additional paid leave of not less than 6 calendar days.

In contrast to the labor legislation of some CIS member states, it is regrettable that there are no norms directly regulating the regime of changeable (flexible) working hours in the Republic of Azerbaijan. Therefore, using the legislative experience of some CIS member states, we consider it appropriate to add a new article with the following content to the Labor Code of the Republic of Azerbaijan: "Article. Changeable (flexible) working time mode.

1. Both when concluding an employment contract and in the process of labor relations, with the aim of connecting the social-household and other personal needs of employees with the interests of production, a changeable (flexible) working time regime can be determined by mutual agreement of the employee and the employer.

2. During the changeable (flexible) working time regime, the duration of daily work (work shift) and (or) weekly work may be more or less than the norm of daily and (or) weekly working time.

3. The duration of worked time, changeable (flexible) working time, the accounting period in the changeable (flexible) working time

regime is determined by the labor contract or collective agreement and cannot exceed 6 months.

4. During the changeable (flexible) working time mode, the following are determined:

a) changeable (flexible) time – this is the time of the start and end of the working day (work shift), within the limits of which the employee is obliged to start work and finish it at his discretion;

b) recorded (worked) time – during this time the employee must be at work;

c) break for rest and lunch;

d) accounting period.

As a result of the comparative analysis, it was determined that, except for the Republic of Azerbaijan and the Republic of Uzbekistan, the shift (multi-shift) working regime is regulated in detail by the labor legislation of the Republics of the Russian Federation, Belarus and Kazakhstan. In the labor codes of the majority of the CIS member states, the norms regulating the shift (multi-shift) work regime are very similar to each other in terms of content. Despite the lack of special norms regulating the shift work mode, including multi-shift work mode, in the Republic of Azerbaijan, the procedure for paying the fee for night time and multi-shift work mode is provided in Article 166 of this Code. Despite the practice of shift (multi-shift) working mode in real life, especially in non-stop productions and institutions serving the population (for example, healthcare institutions, etc.), unfortunately, this issue is not regulated at the level of the current labor legislation, and this is considered a gap. In order to eliminate this gap, we consider it appropriate to add a new article in the following content to the Labor Code of the Republic of Azerbaijan, benefiting from the legislative experience of some CIS member states that regulate the shift (multi-shift) work regime: "Article. Shift (multi-shift) work.

1. Work in two or more shifts is considered shift (multi-shift) work.

2. Shift (multi-shift) work is applied in cases where the length of the production process (work) exceeds the allowed (determined)

duration of daily work, as well as for more efficient use of equipment, and for the purpose of increasing the volume of production (work, service).

3. During shift (multi-shift) work, the duration of the work shift is determined by the shift tables (graphs) of the transition from one work shift to another.

4. During shift (multi-shift) work, each group (brigade) of workers must work during the specified period of working time according to the shift schedule (schedule).

5. The shift schedule (schedule) is approved by the employer, taking into account the opinion of the enterprise trade union organization, and is brought to the attention of the employees at least one month before their entry into force.

6. Workers (brigade) take turns in equal order. It is not allowed to engage the employee during two consecutive work shifts.

7. The labor of employees working in shift (multi-shift) mode of work is paid in accordance with Article 166 of this Code.

The applicant notes that the laws governing the aggregated accounting of working hours of the studied states are largely similar, except for very minor differences. In addition to all this, as a result of the comparative analysis, it was determined that the issues related to the consolidated accounting of working time are more precisely regulated by the Labor Code of the Republic of Kazakhstan. In contrast to the Labor Code of the Republic of Kazakhstan, in the Labor Code of the Republic of Azerbaijan, the lack of definition of the circle of employees who are not allowed to apply the consolidated accounting of working time is regarded as a gap in the labor legislation, and in order to eliminate this gap, Article 96 of the Labor Code of the Republic of Azerbaijan ("Consolidated accounting of working time" ) it is considered appropriate to add parts 3, 4, 5 and 6 in the following edition:

"3. Employees under the age of 18 are not allowed to work due to the application of cumulative accounting of working hours.

4. If the duration of the working day (work shift) exceeds 8 hours, it is not allowed to apply cumulative accounting of working time for pregnant women.

5. It is not allowed to apply aggregated accounting of working time for employees who are disabled due to 81-100 percent violation of body functions.

6. If such a regime is prohibited based on the opinion of the relevant executive power body (SMCE), the aggregated accounting of working time cannot be applied for employees who are disabled due to 31-60 and 61-80 percent violation of body functions".

The shift-work method, which is one of the independent types of the working time regime, is provided for in the Labor Codes of the Republics of the Russian Federation, Kazakhstan, Kyrgyzstan, Moldova and Turkmenistan, with the exception of the Labor Code of the AR and the Labor Code of the Republic of Belarus, and special chapters are dedicated to them.

The norms regulating the shift-work method in the labor codes of the studied states are essentially the same in content. All of them explain the shift-work method practically as a special form of labor process implementation. It is a place of work outside the place of residence of the workers and a regime of working time that includes the inability to ensure that those workers return to their place of residence on a daily basis.

As a result of comparative analysis, such a provision is justified that the norms governing the shift-work method should be included in the current Labor Code of the AR and the Labor Code of the Republic of Belarus. Thus, despite the fact that special chapters regulating the shift-work method have been established in the labor codes of some of the studied states, the lack of regulation of the shift-work method as a special type of working time regime in the AR Labor Code and the Labor Code of the Republic of Belarus is a serious regret and is considered as a gap. In order to eliminate this gap, a new article called "Time method" was proposed to be added to the Labor Code of the Republic of Azerbaijan, and a model of that article was developed in the content of the work.

In the third chapter of the dissertation work, which consists of two paragraphs, a comparative analysis of the legal regulation of overtime work under the labor legislation of the Republic of Azerbaijan and some CIS states was conducted. The applicant notes that the norms governing overtime are provided for in the Labor Code of the CIS member states without taking into account certain differences.

Overtime work, as a rule, is performed with the consent of the employee. However, in the labor legislation of some CIS member states, there is no direct instruction on how to obtain this consent, in written or oral form. Thus, in Part 1 of Article 99 of the Labor Code of the Republic of Azerbaijan, in Article 124 of the Labor Code of the Republic of Uzbekistan and in Part 1 of Article 120 of the Labor Code of the Republic of Belarus, "the consent of the employee", 99 of the Labor Code of the Russian Federation It has been established that overtime work is allowed with the "written consent of the employee" in the 2nd part of the article and the 1st part of the 77th article of the Labor Code of the Republic of Kazakhstan. In order to avoid any labor disputes that may arise in the future, we consider it appropriate to replace the words "employee's consent" in part 1 of Article 99 of the Labor Code of Azerbaijan with the words "written consent of the employee".

In the labor legislation of some CIS member states, there are cases in which it is allowed to involve the employee in overtime work without obtaining the employee's consent. Such cases are provided for in Part 3 of Article 99 of the Labor Code of the Russian Federation (in 3 cases), in Part 2 of Article 77 of the Labor Code of the Republic of Kazakhstan (in 4 cases) and in Article 121 of the Labor Code of the Republic of Belarus (in 2 cases). According to the Labor Code of the Republic of Azerbaijan, overtime work may be allowed only with the consent of the employee. In other words, the Labor Code of the Republic of Azerbaijan does not provide for situations in which it is permitted for the employer to involve the employee in overtime work without obtaining his consent. In this regard, we consider it expedient to make new additions to Article 101 of the Labor Code

in the following content: "1) Part 2 of Article 101 of this Code should be considered Part 3 and Part 2 should be added in the following content: "2 . In the cases provided for in clauses "a" and "b" of part 1 of Article 101 of this Code, the employer may engage the employee to work overtime without his consent.

Unlike the Labor Code of the Republic of Azerbaijan, the labor legislation of some CIS member states allows the replacement of overtime work with an additional day off. For example, Article 152 of the Labor Code of the Russian Federation, Part 2 of Article 157 of the Labor Code of the Republic of Uzbekistan, and Part 2 of the Labor Code of the Republic of Belarus stipulate compensation for overtime work with an additional rest day (time). The lack of such a norm in the AR Labor Code should be considered as a serious gap.

In accordance with part 2 of Article 164 of the Labor Code of the Republic of Azerbaijan, in the event that an employee who has worked on days of rest, voting, holidays that are not considered working days and public mourning days is given another day off instead of wages at the request of the employee, additional rest for overtime work It is very difficult to understand that it is not allowed to be replaced by day. Because the replacement of overtime work with an additional rest day does not contradict the provisions of the international agreements concluded or supported by AR, including any convention of the International Labor Organization ratified by it.

Therefore, we consider it appropriate to issue the 3rd part of Article 165 of the Labor Code in the following version:

“3. Overtime work can be compensated with an additional day off at the employee's request”.

As a result of the comparative analysis, it was determined that despite the fact that the maximum number of overtime works that an employee can be involved in a year is established in the labor legislation of some CIS member states, such a limit is generally not provided for in Article 100 of the AR Labor Code, and this Labor Code is evaluated as a gap.

Benefiting from the positive legislative experience of some CIS member states, we suggest that Article 100 of the Labor Code of the Republic of Azerbaijan be amended as follows: "Article. Overtime limit.

1. Each worker cannot be involved in overtime work for more than four hours in two consecutive working days, two hours in harsh, harmful and dangerous workplaces, and more than 120 hours per year.

2. In the cases provided for in clauses "a" and "b" of Article 101 of this Code, the limitation of the limit of overtime work does not apply to the specified cases".

In the final part of the dissertation work, the results obtained in connection with the research and the proposals are mentioned.

**The following scientific works of the author have been published on the topic of the dissertation:**

1. Zamanova A.A. İş vaxtının hüquqi tənzimlənməsi funksiyaları // Doktorantların və gənc tədqiqatçıların XVIII Respublika elmi konfransının materialları, 2 cildə, II cild, Bakı, 19-20 dekabr, 2013. s.306-307.
2. Zamanova A.A. İş vaxtının hüquqi tənzimlənməsinin anlayışı və əhəmiyyəti // Doktorantların və gənc tədqiqatçıların XIX Respublika elmi konfransının materialları. 2 cildə, II cild, Bakı, 7-8 aprel, 2015. s.174-175.
3. Zamanova A.A. İş gününün müddətini müəyyənləşdirən qaydalar //Azərbaycan xalqının Ümummilli lideri Heydər Əliyevin anadan olmasının 92-ci ildönümünə həsr olunmuş "Heydər Əliyevin Azərbaycan Respublikasının hüquq elminin və təhsilinin inkişafında rolu" mövzusunda beynəlxalq elmi-praktik konfransının materialları. Bakı, 5 may, 2015, s.303-304.
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8. Zamanova A.A. İş vaxtından artıq işin hüquqi tənzimlənməsi //Azərbaycan xalqının ümummilli lideri Heydər Əliyevin anadan olmasının 93-cü ildönümünə həsr olunmuş “Heydər Əliyev və Azərbaycanda hüquqi dövlət quruculuğu” beynəlxalq elmi-praktik konfransın materialları. 2 cildə, II cild. Bakı. 3 iyun, 2016. s.282-284.
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10. Zamanova A.A. Azərbaycan Respublikasının və bəzi MDB dövlətlərinin əmək qanunvericiliyinə görə iş vaxtının anlayışı // Bakı: Qanun jurnalı, 2017. № 01, s.51-58.
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The defense of the dissertation work will be held on **31 May 2024 at 11<sup>00</sup>** at the meeting of the BFD 2.44 Dissertation Council, which operates under the Baku State University.

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The dissertation work is accessible at the Library of Baku State University.

Electronic versions of dissertation and abstract are available on the official website of the Baku State University.

The abstract was sent to the required addresses on **30 April 2024**.

Signed for print: 18.04.2024  
Paper format: 60x84  
Volume: 37448  
Number of hard copies: 50