

Impact of the Pandemic on Labor Relations - Remote Work and Its Specifics in Georgia

Nutsa Turashvili¹, Ivane Saghinadze², Ekaterine Bakaradze³

¹*New Vision University, Tbilisi, Georgia, nturashvili@newvision.ge*

²*New Vision University, Tbilisi, Georgia, isaghinadze@newvision.ge*

³*International Black Sea University, Tbilisi, Georgia, ebakaradze@ibsu.edu.ge*

ABSTRACT: The paper aims to study the impact of the pandemic on labor relations and the specifics of legal regulation in Georgia. The study examines the legal regulation of the organization of the remote work process due to the COVID-19 pandemic in terms of sudden termination of labor relations, aggravation of working conditions, and radical change to the conditions agreed between the parties, and other similar circumstances. The research attempts to identify what problems, questions, or unclear circumstances may be faced by both the employee and the employer; to what extent is the result of actions in labor relations consistent with labor legislation during the pandemic; whether the legislation of Georgia allows orientation during the mentioned period; and whether there are any norms in the labor legislation of Georgia that may directly or indirectly relate to the regulation of remote work. The challenges and gaps that became very relevant in the labor legislation of Georgia during the pandemic of 2020 are highlighted. At the end of the study, the ways of solving the gaps identified in labor relations and legislation are presented, as well as the elimination mechanisms for their application in reality, based on the example of the world response. Recommendations are presented to strengthen and improve the labor legislation of Georgia with more positive elements.

KEYWORDS: labor law, remote work, Georgian legislation, labor relations

Introduction

Work is a simultaneous process of human existence and is defined as one of the basic human rights. Nowadays, a written and/or oral agreement between the parties is essential for the employment relationship. After the adoption of Directive 91/533/EEC (Council of the European Union 1991), the labor market has undergone extensive changes due to demographic developments and digitization. All this has given rise to new forms of employment, enhanced innovation, job creation, and labor market growth. Some of the new forms of employment are significantly different from traditional employment relationships in terms of predictability, creating uncertainty regarding the applicable rights and social protection of the employees concerned. As the world of work evolves, the obligation to fully inform employees about their essential working conditions also increases. Working conditions and obligations should be shared with the employee in a timely, written form, and at the same time, they should have the opportunity to easily access it. In order to adequately develop new forms of employment, employees should also be given a series of new minimum rights aimed at ensuring security and predictability in labor relations, achieving upward equality in states, and maintaining labor market adaptability (Council of the European Union, Parliament of the European Union. 2019). Worldwide, one of the most important challenges of the 21st century may be the coronavirus, the same as “COVID-19”, which has put modernity in front of great challenges and caused significant changes in the labor market. Employers and employees have had to deal with many unplanned changes. However, the unconditional leader of dealing with the created reality turned out to be a change in the type of labor relations, in particular, the management of relations in a remote mode. Employers were forced to temporarily close their businesses or, in order to maintain business continuity and labor relations, organize remote work conditions and modify workplaces. Remote work is a relatively new alternative work method (Baruch Yehuda 2002), however, it was first developed in 1970. It is evaluated as a strategy to reduce the cost of property of organizations (Bailey and Kurland 2002) that have changed the work space, time, schedule, or

other circumstances (Belzunegui-Eraso and Erro-Garcés 2020). On the one hand, the changed workspace turned out to be very comfortable and productive for the employee (Donnelly and Proctor-Thomson 2015, 47-61), and on the other hand, the functional needs of the employees and the aspect of calculating the time required for the performance of work became visible to the employers. However, the negative side was also revealed due to the social background of the employee, and the economic pressure of the employer, which they cannot cope with because of the nature of the activity. Here we should mention the suddenly terminated labor relations, which, in most cases, despite the inappropriate implementation of legal norms, did not or could not become the subject of a dispute.

The subject of the research is the circumstances mentioned above, the existence of which was put on the agenda by the reality created by the pandemic. The most important consideration is the legal regulation of this environment because, in the current period, the observation of practical examples revealed that the legislation was more or less unprepared for the regulation of sudden termination of labor relations, deterioration of working conditions, radical change of the conditions agreed between the parties, and other similar circumstances.

The paper also covers compliance of actions and results in labor relations with legislation during the pandemic. Does the legislation of Georgia allow us orientation during the mentioned period? For example, how should we act so that the content of the labor relationship, which is strengthened by the labor contract, does not turn into another type of contract during the transition to remote work? Are there any norms in the legislation of Georgia that may directly or indirectly relate to the regulation of remote work?

The research will try to identify what problems, questions, or unclear circumstances may be faced by both the employee and the employer. Due to the following examples of the world response, and recommendations, what possibility can Georgia accept and improve the current situation with even more positive elements?

The relevance of the topic is determined by the research and application in reality of the mechanisms of elimination of misunderstandings caused by the coronavirus pandemic in terms of labor relations. The purpose of the topic is to highlight the challenges and gaps that became very relevant in the Georgian legislation during the 2020 pandemic. Also, the work aims to identify the gaps in the raised problems—both in labor relations and in regulations—and to define ways to solve them.

1. Authority of the employer in determining working conditions

The subordinate position consists of the work mode developed by the employer and the obligation of the employee to perform the work. The mentioned situation obliges the employee to take into account the rules and standards developed by the organization where he works. Before the start of the work, the employer is obliged, to introduce the person to the future conditions and after the agreement, to sign the contract (European Commission 2017). However, directly, during a certain working period, if the employer wants to change any conditions that essentially change the content of the work and the agreed conditions, then there must be the consent of the employee. There is an exception in which an employer can independently authorize the change, as long as they notify the employee to clarify or change any condition that does not substantially alter the terms provided in the contract (Parliament of Georgia 2016).

Remote work should be defined as one of the types of labor relations (Welz and Wolf 2010), and therefore, when an employed person moves to remote work, all the conditions characteristic of labor relations should be shared. Certain circumstances can be clarified by the employer, however, this change should not radically change the original agreement, unless, of course, the employee's consent to the revised conditions. For example, an employer can change the start and/or end time of work by no more than 90 minutes, and this will not be considered a material change. However, when an employee works 7 hours a day, the employer cannot oblige

him to work 8 hours a day after switching to remote work, unless the employee's agreement. According to Brown and Green (2024), employer support is crucial in remote work settings to mitigate isolation and maintain productivity. They recommend implementing regular virtual interactions to counteract social isolation, a common issue in remote work (Brown and Green 2024).

In general, according to the European Framework Agreement on telework (European Trade Union Confederation 2002), telework is a form of work organization and/or performance of work, using information technology, in the context of an employment contract/relationship, where work, which can also be performed on the employer's premises, is regularly carried out on that premises outside. The right to fair working conditions is determined by (European Commission 2021):

- Under the European Pillar of Social Rights - Principle 10: Healthy, safe and well-adapted work environment and data protection: Employees have the right to a high level of health and safety protection in the workplace.
- According to the Charter of Fundamental Rights of the European Union - Article 31: Fair and honest working conditions: 1. Every employed person has the right to working conditions that respect his health, safety, and dignity; 2. Each employed person has the right to limit the maximum working hours, daily and weekly rest periods, and annual paid leave (Council of the European Union 2012).

2. Distance work and its specific nature in Georgia

In 2020, no one expected the appearance of a pandemic in the lives of the world's population. Therefore, dealing with the current situation was not easy for several reasons. For the analysis of this topic, it will be relevant to review the criteria for evaluating remote work in Europe and analyze what both the employee and the employer have to consider.

Flexibility, as well as the use of information and communication technologies, are characteristic conditions of remote work (International Labour Organization. 2017) The European Trade Union Confederation (ETUC), the Union of European Industrial and Employers' Confederations / European Union of Crafts and Small and Medium Enterprises (UNICE/UEAPME), and the Centre for Community-Participatory Enterprises (ECPE) have signed a framework agreement on teleworking, which aims to secure the safety of teleworkers in the EU provision. Before employees agree to switch to remote work, the employer must assess whether a particular job can be performed remotely. The above-mentioned agreement focuses on several important directions, where the specific nature of remote work should be taken into account, such as the voluntary nature of telework, employment conditions, data protection, privacy, equipment, health and safety, work organization, training of teleworkers, and their collective rights.

3. Voluntariness

It is possible to determine remote work as part of the main contract and, subsequently, by signing a voluntary agreement on this specific issue (Kraan and Blok 2022). In both cases, the employer is obliged to inform the employee in writing about the details of telework, which is also provided by Directive 91/533/EEC. A negotiated agreement is necessary to settle issues such as work organization. Also, such an agreement provides forms of job change when the employee moves from the direct employer's workplace to remote work and vice versa. The European Framework Agreement also ensures that both the employer and the employee can terminate remote work at any time, without changing the employment relationship or working conditions. Accordingly, there is no direct right and/or obligation for the employee to work remotely. Switching to remote work is only a matter of agreement and voluntariness.

4. Work conditions

It is not allowed to prescribe discriminatory conditions for a person working remotely - they enjoy the same rights as they enjoy at the employer's place of work. These rights are guaranteed by the relevant legislation and also by collective agreements. In order to take into account, the features of remote work, it may be necessary to conclude specific agreements. An appropriate work environment at home may include: 1. a room or, in extreme cases, a space where they can perform the work assigned to them; 2. Adequate temperature and humidity; 3. Adequate lighting so that the employer can perform his/her work without health harm; 4. Appropriate and useful internet connection; 5. Regular inspection of devices and electronic wiring defects (Munar 2020).

5. Privacy and data protection

According to the European Framework Agreement, the employer must respect the privacy of the remote worker. The said agreement makes an assumption regarding the creation of a certain type of monitoring system. However, it also states that the mentioned system should be proportionate to the purpose and interpreted in accordance with the directive on visual displays - 90/270. If the employer needs to access the workplace of a teleworker, it can only do so after prior warning, notice, and also with the employee's consent.

The employer is responsible for taking appropriate measures to ensure the protection of the data used and processed by the employed person for professional purposes. The employer must inform the teleworking employee of any restrictions on the equipment as well as any time or sanction for non-compliance. In addition, the employer has a responsibility to take appropriate data protection measures and to ensure that the remote worker is informed of all relevant legislation as well as internal policies. For example, this could be a restriction on using the equipment for private purposes. Also, when we talk about security, first of all, in this case, we mean the protection of information technologies. Its security refers to the protection of information and information systems from unauthorized access, use, disclosure, violation, modification or destruction. It ensures that system, data, and software integrity is maintained and that information and system resources are protected from unplanned processing interference (Gurvis and Philpott 2010).

6. Equipment

According to the European Framework Agreement, if the employee does not want and/or does not have the appropriate work equipment, the employer is responsible for ensuring that the teleworking employee is equipped with the necessary equipment, installed and maintained in a working condition. Additionally, the employer is responsible for the costs of equipment, database damage, and/or loss provided to the remote employee. However, the definition of liability for equipment damage should not be extended if the damage was caused by the negligence of the employee. In other cases, it is clear that when the equipment is damaged without the will and/or fault of the employee, the responsibility is transferred to the employer. Also, it should be noted that a person working remotely has the right to make a free choice regarding the equipment. For example, to perform the work assigned to him, he can use the equipment he owns. However, this should also not be understood as if the employer is not responsible for technical support. There is simply an assumption that if the employed person wants to use their own equipment, which corresponds to and meets all the data for the performance of the assigned work, then there is no reason to refuse.

7. Health and safety

According to the European Framework Agreement, national legislation, collective agreements, 89/391, and other relevant directives, the employer is responsible for protecting the occupational health and safety of the person working remotely (National Center for Immunization and

Respiratory Diseases 2020). It is necessary for the employer to inform about all the risks that may occur in the work process and also to provide specific equipment to the employed persons for the observance of all safety measures and standards. The principle of equal treatment for employed persons in terms of health and safety is one of the important conditions. Therefore, countries should apply appropriate regulations for remote workers as well. In fact, in practice, the creation and control of adequate working conditions by the employer can sometimes become problematic, because taking measures outside of the work premises designated by the employer creates much more difficulties. In general, although there may be no specific legislation, most national employment, occupational safety, and health legislation obliges most employers to provide and maintain a safe workplace for their employees (International Labour Organization 2020).

8. Organization of work

The European Framework Agreement also defines the principle of work organization. According to the aforementioned, within the limits of the relevant legislation, collective agreement, and the organization's charter, a person working remotely determines his working hours. The workload and performance standards of a teleworking employee must be equivalent to that of a similar employee, with the only difference being that the latter works in a workplace designated by the employer. However, only in exceptional cases, when it is essential for the organization in which part of the day this or that work will be performed, employers should have the opportunity to determine a specific work period, which would be important to regulate by legislation.

9. Career development

Remote workers should have the same access to training and career development opportunities as those who are working directly at the employer's workspace. Also, a person in any employment relationship should benefit from the same evaluation scheme. Individuals working remotely should have the same access to training and career development opportunities as individuals working directly at the employer's workspace. Also, a person in any employment relationship should benefit from the same evaluation scheme.

10. Collective rights

The European Framework Agreement on Telework guarantees the collective rights of teleworkers. They should not have any communication obstacles with their colleagues who work from the employer's workplace. Most countries apply the same set of rules regarding collective rights to all employees, regardless of whether the work is performed directly at the company or remotely. According to member states, it is not necessary to develop additional, different regulations to achieve this goal. The mentioned uniform approach ensures equality for all employed persons.

Conclusions

In 2020, the appearance of the coronavirus and the creation of a pandemic significantly changed, simplified, and at the same time complicated daily life in many areas and directions. First of all, one of the most chaotic environments was created for persons in labor relations. In general, the labor market determines many subsequent processes in which we live. Accordingly, the regulation of labor relations is one of the world's priority issues.

In general, the remote working process is not a new word in world practice, and the necessary conditions for it are spelled out in the framework agreement of the European Union. However, the pandemic has reminded us once again that we live in a technological age and it is necessary to constantly adapt and evolve. Therefore, employers must think about the active implementation of the remote form in labor relations and, in turn, states ensure regulation at the legislative level.

The legislation of Georgia does not directly recognize the type of remote work, and therefore, it has become difficult to switch to remote work during COVID-19. Therefore, as a result, we got chaos, and confusion, which was not a pleasant process for employees and employers. However, the massive introduction of remote working as a response to the COVID-19 crisis prevents employees from exercising their rights and makes it difficult for companies to complete the teleworking process. In this context, the company forces employees to accept remote work as a way to extend their working relationship.

The correct and most comprehensive regulation of remote work is also important because, in its essence, it can be equated with a type of service, not an employment relationship. However, it will be necessary to prescribe many specific content provisions. It is necessary to determine by legislation that remote work is one of the types of labor relations, which must be supported by a labor contract.

Because remote work is a type of labor relationship, it is possible to assume that the full spread of regulations specific to labor relations will be sufficient to regulate remote work. However, in reality, certain conditions still need to be fulfilled and it would be good if all the obligations, imperative or dispositional norms, which guide both the employer and the employee in the remote labor relationship, will be written in the legislation.

Remote work arrangements are advantageous for employees in many ways if we compare them to a situation where they have to work in a single workplace - a space allocated by the employer. Remote employees generally have more autonomy to organize their own work time, achieve a better work-life balance, and at the same time maintain high productivity (Vargas et al. 2020). Such working forms can have different effects on practically all aspects of working conditions, depending on the type of work, the individual profile of the employee, the employing company, the industry, and the country's environment (International Labour Organization 2016).

References

- Bailey, Diane E., and Nancy B. Kurland. 2002. "A Review of Telework Research: Findings, New Directions, and Lessons for the Study of Modern Work." *Journal of Organizational Behavior* 23(4): 383-400.
- Baruch Yehuda. 2002. "Teleworking: Benefits and Pitfalls as Perceived by Professionals and Managers." *New Technology, Work and Employment* 5(1): 34-49..
- Belzunegui-Eraso Angel, and Amaya Erro-Garcés. 2020. "Teleworking in the Context of the Covid-19 Crisis." *Sustainability* 12(9): 3662.
- Brown Alice, and Robert Green. 2024. "The Effects of Remote Work on Employee Productivity and Well-being." *Journal of CES*.
- Council of the European Union, Parliament of the European Union. 2019. Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on Transparent and Predictable Working Conditions in the European Union. PE/43/2019/REV/1. Brussels: Official Journal of the European Communities.
- Council of the European Union. 1991. Council Directive 91/533/EEC of 14 October 1991 on an Employer's Obligation to Inform Employees of the Conditions Applicable to the Contract or Employment Relationship. Luxembourg: Official Journal of the European Communities.
- Council of the European Union. 2012. Charter of Fundamental Rights of the European Union. Brussels: Official Journal of the European Communities.
- Donnelly, Noelle, and Sarah B. Proctor-Thomson. 2015. *Disrupted Work: Home-based Teleworking in the Aftermath of a Natural Disaster*. Oxford: Blackwell.
- European Commission. 2017. *Commission Staff Working Document*. Brussels: Official Journal of the European Communities.
- European Commission. 2021. *The European Pillar of Social Rights in 20 Principles*. Brussels: Official Journal of the European Communities.
- European Trade Union Confederation. 2002. *Framework Agreement on Telework*. Brussels: EU Social Dialogue Resource Centre.
- Gurvis Sandra, and Don Philpott. 2010. *The 21st Century Workforce Handbook for Managing Teleworkers*. USA: Government Training Inc.

- International Labour Organization. 2016. *Non-Standard Employment around the World: Understanding Challenges, Shaping Prospects*. Geneva: ILR.
- International Labour Organization. 2017. *Working Anytime, Anywhere: The Effects on the World of Work*. Geneva: ILR.
- International Labour Organization. 2020. *An employers' guide on managing your workplace during COVID-19*. Geneva: ILR.
- Kraan, Karolus, and Merle Blok. 2022. *Telework*. Brussels: EU-OSHA.
- Munar, Lorenzo. 2020. *Practical Tips to Make Home-Based Telework as Healthy, Safe and Effective as Possible*. Brussels: EU-OSHA.
- National Center for Immunization and Respiratory Diseases. 2020. *Interim guidance for businesses and employers to plan and respond to 2019 coronavirus disease (COVID-19)*. USA: CDC.
- Parliament of Georgia. 2016. *Georgian Labour Code, Article 11*. Georgia: matsne.gov.ge.
- Vargas, Llave Oscar, Irene Mandl, Tina Weber, and Mathijn Wilkens. 2020. *Telework and ICT-Based Mobile Work: Flexible Working in the Digital Age*. Dublin: Eurofound.
- Welz, Christian, and Felix Wolf. 2010. *Telework in the European Union*. Dublin: Eurofound.