THE EMPLOYEE’S RIGHT TO WORK OFFLINE: A COMPARATIVE ANALYSIS OF LEGAL FRAMEWORKS IN DIFFERENT COUNTRIES

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ABSTRACT

Purpose: In the digital age, many employees are pressured to be constantly connected to work through various technological devices.

Method: The study analyzes the legal frameworks in France, Italy, Spain, Germany, and the United States. The analysis is based on a review of relevant legislation, case law, and scholarly literature. In the procedure of writing the work, such approaches as: analysis, mixture, data review were used.

Results and conclusion: The right to disconnect or work offline has emerged as a legal concept that seeks to protect employees from the negative consequences of being constantly connected to work. It has led to a growing concern about the impact of digital technologies on employee well-being and work-life balance. This article compares the legal frameworks governing employees' right to work offline in different countries. The findings suggest that legal frameworks can play an important role in promoting work-life balance and employee well-being and that international cooperation and exchange of best practices may help to develop more effective legal frameworks to address the challenges of the digital age.

Research implications: The study highlights the differences and similarities in legal approaches and discusses the implications for employee well-being and productivity.

Originality/value: We have to learn the lesson of the pandemic and systematically approach the use of digital opportunities to develop students’ competencies. We tested our abilities in difficult conditions, identified weaknesses and became more aware of our values. In this regard, the experience gained by universities is evaluated positively. It will certainly contribute to development.

Keywords: Remote Work, Coronavirus, Information Leakage, Epidemic, Offline, Legal Frameworks.

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O DIREITO DO EMPREGADO DE TRABALHAR OFFLINE: UMA ANÁLISE COMPARATIVA DE ESTRUTURAS LEGAIS EM DIFERENTES PAÍSES

RESUMO

Objetivo: Na era digital, muitos funcionários são pressionados a estarem constantemente conectados para trabalhar por meio de diversos aparelhos tecnológicos.


Resultados e conclusão: O direito de desligar ou trabalhar offline surgiu como um conceito legal que busca proteger os empregados das consequências negativas de estarem constantemente conectados ao trabalho. Isso levou a uma preocupação crescente sobre o impacto das tecnologias digitais no bem-estar dos funcionários e no equilíbrio entre vida pessoal e profissional. Este artigo compara as estruturas legais que regem o direito dos funcionários de trabalhar offline em diferentes países. As descobertas sugerem que as estruturas legais podem desempenhar um papel importante na promoção do equilíbrio entre vida profissional e pessoal e bem-estar dos funcionários e que a cooperação internacional e o intercâmbio de melhores práticas podem ajudar a desenvolver estruturas legais mais eficazes para enfrentar os desafios da era digital.

Implicações da pesquisa: o estudo destaca as diferenças e semelhanças nas abordagens legais e discute as implicações para o bem-estar e a produtividade dos funcionários.

Originalidade/valor: Temos que aprender a lição da pandemia e abordar sistematicamente o uso das oportunidades digitais para desenvolver as competências dos alunos. Testamos nossas habilidades em condições difíceis, identificamos fragilidades e nos tornamos mais conscientes de nossos valores. Nesse sentido, a experiência adquirida pelas universidades é avaliada positivamente. Certamente contribuirá para o desenvolvimento.

Palavras-chave: Trabalho Remoto, Trabalho Remoto, Coronavírus, Vazamento de Informações, Epidemia, Offline.

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1 INTRODUCTION

The advent of digital technologies has transformed the way people work and communicate. Many employees are expected to be always available and connected to work through various technological devices, such as smartphones and laptops. This constant connectivity can negatively affect employee well-being, leading to stress, burnout, and work-life imbalance. In response, the employee’s right to disconnect or work offline has emerged as a legal framework to protect employees from the negative consequences of being always connected to work(Ashik, 2013). The employer can only transfer an employee to remote work mode in exceptional cases: natural or man-made disasters, industrial accidents, fires, floods, and other situations that endanger the lives or normal lives of societies. (Dubinin V, 2015).

However, in this case, the employer undertakes to provide the employee with the necessary work equipment or to pay for the rental of such equipment (Miroshnichenko M.A, 2020).

The period of temporary remote work should not exceed six months. However, the document allows the employer can periodically send employees to the remote, alternating...
offline and online modes. The Ministry of Labor told RBC that now the time of interaction with
the employer for an employee on the remote is working and paid. Extra time is considered
overtime and is rewarded separately. If an employee has not been contacted for more than two
days without a valid reason, the employer has the right to terminate the employment deal with
him. The “Confederation of Labor of Russia” legal department called this item an opportunity
for manipulation since there can be many reasons for the absence of an employee online. The
transfer to remote work cannot be a reason for a wage reduction (de Oliveira, 2023).

Remote work related to the coronavirus pandemic is a mandatory measure in 2020. At
this point the restrictions have virtually been lifted, but let's determine what threats remote work
carries to information security (Lobodina, A.S., 2015). There are profits for employees switching
to remote work. This includes high labor efficiency, which ensures that the employee is not
distracted by other employees. Moreover, it saves time on the way to work. At the same time,
an important disadvantage for the employer is to ensure data protection when organizing such
a work method for an employee.

1.1 Statistical Analysis

Data security experts have named major crimes committed on the web. Overall, 73% of
all cybercrimes on the Internet are responsible for fraud, of which 56% are a scam (fraud with
voluntary payment and disclosure of their information), and 17% are phishing (theft of bank
card information).

Now the organization of external access protection has become much more relevant.
The new situation requires changes in information security organization (Miroshnichenko
M.A., 2020). It's impossible for remote workers to extend the entire set of corporate security
tools across the network, but several solutions allow you to secure work from home.

2 METHODS

This article compares the legal frameworks governing employees' right to work offline
in different countries. The study analyzes the legal frameworks in France, Italy, Spain,
Germany, and the United States. The analysis is based on a review of relevant legislation, case
law, and scholarly literature. In the procedure of writing the work, such approaches as: analysis,
mixture, data review were used.

3 RESULTS

The study reveals that the legal frameworks governing employees’ right to work offline
vary significantly across countries. In France, for example, the right to disconnect is enshrined
in law, and employers are required to negotiate with employee representatives to establish
policies and procedures to ensure that employees can disconnect from work. In Italy, the right
to disconnect is not explicitly recognized in law, but it is considered a fundamental right
protected by the Constitution. There is no legal framework in Spain for the right to disconnect,
but some companies have established voluntary policies to promote work-life balance.

In contrast, in the United States, there is no legal framework for the right to disconnect,
and employers have broad discretion to require employees to be always available and connected
to work. However, some states have enacted laws that regulate work hours and require overtime
pay for certain employees.
4 DISCUSSION

In the current situation, the only way to avoid a crisis is to ensure business security despite the "remote" transformation. The market can offer many solutions. And for example, one of the ways to keep financial documents secret is to outsource them to a trusted specialized company. It's safe: all liabilities are insured (Lobodina A.S.2020). According to experts, the number of database leaks of clients of enterprises transferred to remote work can increase 2-3 times: employees work on home computers that are not protected from cyberattacks, transfer valuable business information to each other on messengers and social networks, security services do not control them(Bloom D.E.2018).

The causes of remote labor — the coronavirus pandemic — have led to a lot of data attacks. The sender of the email may be the World Health Organization or any other reputable organization to get the victim's attention (Isaeva M.F,2019).

As a result, the security company has become more and more dependent on the awareness and acceptance of its employees regarding data protection. For many years, companies have integrated data protection into an example where employees work in a controlled infrastructure within the office (Sizov V.A,2020).

Some employees were relocated between the company and the homes of public networks and networks due to the characteristics of some jobs. However, their participation was relatively small, and the "distance" was due to the small number of more regulated data protection departments.

Remote work is a mode of work in which an employee performs his or her work without leaving the office. At the same time, the employee can be anywhere: at home, with friends, in the village, or even abroad (Polyanichko M.A,2019). This operation mode has become the most widespread in Russia due to the 2020 pandemic. Most of the employees were forcibly shifted to remote work during the lockdown. During self-isolation, enterprises and employees have mastered such a model of cooperation. At the same time, it helped businesses to save money on office rent and maintenance and employees – on the road. In this regard, the government has made appropriate amendments to the Labor Code to settle the issue of remote work.

Communication networks for employer and employee interaction. Thus, according to Article 312.1, remote work can be understood as the performance of a specific official function outside the company's location, its branch, representative office or any other separate structural unit when using information and telecommunications networks, including the Internet and public networks. For the interaction to occur reliably, the relationship needs to be properly formalized. This will prevent regulation and penalties from labor commissions and other authorities(Guimarães,2023).

Due to the limitations of ways to secure device users at home and on public networks, antivirus protection is of particular importance. Antivirus agents have probably already installed corporate devices, but their security measures may not be enough in the new environment (Dubinin V.V, 2015).

Analysts say companies, as well as financial and insurance companies and healthcare companies, have come under attack: hospitals, pharmaceutical companies and medical equipment manufacturers, meaning the social sector is the most important and relevant during the pandemic. Adaptation services create the right operational process within data protection. You must create a so-called security center, an operations center (SoC), to respond quickly to data protection incidents. Now companies have an option — to get the team back into the office, leave it remotely, or switch to a new, more efficient model of organizing the work environment. A lot depends on where employees work, not only in the organization's workplace design, but also in terms of capital allocation and employee management. When it comes to possibilities, experts disagree.
Some argue that the test of working from home was so successful that the remote wouldn’t go anywhere. Others are convinced that many people lack personal communication, and that offices will quickly be filled with employees again. Between these two poles, there’s someone who’s convinced that instead of this extreme, an intermediate option awaits us — hybrid work from home and office. It is important to clarify what work from office will look like in the future and 1,600 Australian office workers have been interviewed and spoken to executives and workplace organizer experts from several companies.

Australia is an important example: instead of waiting for the vaccine to appear, the country’s authorities largely controlled the spread of the virus by closing borders for non-residents, restricting movement between states, and introducing self-isolation orders and measures to carefully track contacts in each outbreak.

In October 2020, when strict multi-month restrictions began to be lifted in some regions, only 7% of employees returned to offices in Melbourne, the most affected city in the country, according to the Australian Real Estate Market Council. By April, more than 41% of the working specialists had returned to the offices. In Perth, Adelaide and other cities less affected by the pandemic, office occupancy is estimated at 70%, which is only slightly lower than the figures for the period before the pandemic. Outbreaks of the disease still happen, and the government imposes temporary restrictions. Borders are also closed, but most Australians can dine indoors, attend major sporting events and go to work. The pandemic has accelerated the digitalization process. Within the framework of the national program, the advancement of digital technology, digital transformation of institutions, citizen administration and education are being strengthened, firstly, in the current reality, where digital technology is becoming a competitive advantage and secondly, to support initiatives to keep pace with the global pace of digitalization.

The pandemic has strengthened the social function of digital technologies and services. Thanks only to digital technology, during the hardest times of the pandemic, a huge transformation into the format of remote work was possible. The forced comprehensive self-isolation system has shown that the development of the digital economy is impossible without high levels of connectivity, so providing internet access to every corner of the country is one of the priorities of the program. The current situation will trigger more active changes in production processes in many sectors of the economy, Kharitonov believes.

Automatic production is developing due to artificial intelligence technologies, robotization of processes, the introduction of tools for multidimensional modelling and management of production facilities, etc. The course for a large-scale systemic digital transformation of industries and zones of the economy has already been taken, and the national program is naturally being “rebuilt” to meet new realities. Changes are taking place in every federal project that is included in it. As part of the renewal of the federal project "Digital Technologies," the way the system is structured to support projects related to the development of digital technology has changed. Emphasis is being laid on supporting projects of indigenous IT solutions aimed at ensuring effective interaction in the field of social distancing, remote work and study potential, development of diagnostic systems, health monitoring and online services.

The need to attract additional budget sources of funding to support the industry has been reduced. During the pandemic, people went to the remote mode of work against their will: either work like this or cease to exist as an organization or business structure. Therefore, both employees and employers had to adapt to this abnormal situation. After the restrictions are lifted, and people can make independent decisions again, approaches to the processes will begin to be reviewed rationally. Most organizations will return to the usual work organization scheme and previously established business processes. Improving these processes is one of the priority
tasks of management since labour productivity, costs, reputation and staff satisfaction depend on the effectiveness of work processes.

Process automation is an important element of this improvement. Automation of processes allows organisations to release part of the staff and transfer some categories to remote work without losing quality (Kolesnichenko V.N, 2020).

In the context of the pandemic, remote work was introduced without adequate training in processes, technologies, and personnel. Therefore, in most cases, labour productivity and the quality of work have decreased. Going back to the traditional work organization is more profitable for the company. But during the pandemic and forced removal, experience was gained. As everything returns to normal, a smart employer will analyze this invaluable experience and make decisions based on it. If a certain class of employees are identified who can work effectively remotely and who will be satisfied with it, remote work can become the standard.

However, I don't think it would be unreasonable to move most classes of workers to remote work anytime soon. Of course, companies will make decisions based on a simple criterion: how effective it is for business. Here it is necessary to clearly understand: the main task of the business is to reduce costs and improve quality. The company has an advantage over competitors if we have the best results and high productivity. And if productivity is so-so, and costs are rising, then the question of advantages is not worth it. It would survive. Now to the question of the economy. Today, there is a lot of talks that it is more profitable for an employer to keep an employee remotely – he saves on renting an office, organizing a workplace, paying for utilities and much more (Makhalina O.M., 2020).

It is a three-kopeck saving. There will still be an office. And there will still be someone in the office. It's a myth that organisations will save so much on this. Yes, the office will have lower Internet traffic; fewer workplaces must be equipped with equipment.

But these same jobs and traffic are moving to the employee’s home, and the employer must provide his employee with working conditions. And in addition to dubious savings, companies will receive increased risks. So, the employer can control how his resources and equipment are spent in the office. For example, to be more or less sure that its equipment is used for its intended purpose (Lobodina A. S, 2017).

If it all shifts home to the employee, then where is the guarantee that the manager works with clients on a high-speed computer and does not play preference or shooting games? Or that the child will not come and break it all during the break. And another important topic is business security. Data security in the digital economy is one of the most significant responsibilities of any organization, especially commercial. There are difficulties with ensuring security even when all employees work on the company's territory and work processes are concentrated in its internal network. Just imagine how much the risks increase when everyone works from home. It is impractical in most cases.

Of course, a pandemic is a challenge. And we accepted this challenge. Meaningful use of remote work opportunities is one of the forms of integration into the digital world. You just need to understand that this integration is not a simple and not fast thing. Let's take universities as an example. Since the beginning of the 21st century, professionals have been seriously discussing approaches to the development of distance learning and changes in the relationship between classroom classes and independent online learning. During this time, a good experience has been gained. But it is extremely difficult to find examples of effective online learning that can compete with traditional ones in our country.

The reason is the lack of investment in distance learning development and the implementation’s unsystematic nature. Now, of course, the transition to online has occurred massively and rapidly. But most universities have no effective distance learning mechanisms, a weak technical base, and a shortage of qualified teachers ready to work qualitatively online.
And most importantly, there are no high-quality training programs designed exclusively for online learning following modern standards. It refers to educational standards for developing competencies, not primitive information (a lecture in the "talking head" mode) with the same primitive knowledge tests.

Developing such programs in advanced countries is an independent activity for professionals specializing exclusively in this. A lot of money is invested in the development, so the result is excellent. Universities acquire ready-made programs and send their teachers to study them. It is how tutors prepare for distance learning. The development of a distance learning course is one of the tasks of a teacher, which, as a rule, differs little from a traditional course. Of course, we have a lot of teachers with distance learning experience who have already more or less successfully modified their programs to suit online features. They are currently demonstrating quality training. Teachers with weak competencies in the digital sphere are forced to study, as they say, on the march.

The quality of distance learning depends not only on teachers but also on IT specialists and administrative staff. And here, the positive effect depends on their competence and willingness and ability to work as a single team. And the team, as the practice has shown, is not in every university. It is a question for the management. For the most part, educational institutions have not prepared the infrastructure for the transition to high-quality distance learning. But here's what's important here: the experience we have gained is, of course, moving forward. We have to learn the lesson of the pandemic and systematically approach the use of digital opportunities to develop students' competencies. We tested our abilities in difficult conditions, identified weaknesses and became more aware of our values. In this regard, the experience gained by universities is evaluated positively. It will certainly contribute to development.

We understood a lot about ourselves. About work, online and offline, about remote formats and live communication. It applies to both employees and employers. A pandemic-like force majeure is a test of strength, professionalism, and teamwork. It shows who is worth what. It is certainly a good experience that will be used for self-improvement. For many, it is painful. But an honest and open analysis of the experience gained will lead to a transition to a new level of development.

5 CONCLUSION AND SUGGESTION

The study highlights the differences and similarities in legal approaches to employees' right to work offline across different countries. While some countries have established legal frameworks to protect employees' right to disconnect, others rely on voluntary policies or have no legal protections. The findings suggest that legal frameworks can play an important role in promoting work-life balance and employee well-being and that international cooperation and exchange of best practices may help to develop more effective legal frameworks to address the challenges of the digital age.

So, the coronavirus pandemic has completely changed the "rules of the game", challenging industry and business. As a result, a huge number of organizations have concluded that there is a need for digitalization, as well as automation of business processes, as well as the introduction of an approach in companies based on predictive analytics and risk assessment.

Thus, having many years of experience working in conditions of the constant risk of emergencies, as well as the introduction of remote-control systems and analysis of production processes, can become a good example, and in some cases, even the best practice that can be used to implement digital transformation and ensure business preparedness for emergencies.
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