

# POSSIBLE CONCEPTS OF WORK OUTSIDE OF EMPLOYERS' PREMISES IN TERMS OF TRANSITION AND NEW TECHNOLOGY

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**Abstract:** *The aim of this paper is to examine the possible role of work outside the premises of the employer in terms of new technology and economic activity in general. It is a specific form of labor that is flexible in nature as it adapts to conditions of the employer's business in specific market circumstances. The work is not carried out at the headquarters of the employer or its separate parts, but in other business premises, most often at workers' home. Legal nature of this type of work varies and depends on the attitude of the legislator in a particular legal system. In some systems, this kind of work is a type of employment (for example, in our country), and in others it is considered work outside employment. Legal qualification of forms of labor sets the rights and obligations of participants, especially workers as executors of this type of employment. The author examines the usage of the this type of work in our country, the problems that can arise and how to assess its possible role in terms of new technology in terms of transition in our country, offering further new types of legislation.*

**Keywords:** *work outside of the employer's premises, flexible employment, employment and work out of employment.*

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## 1. INTRODUCTION

The development path of the legal nature of the work outside the employer's premises, as a specific form of labor ranges from forms of work outside employment to the type or form of employment, which is the basis for a review of the strengths and weaknesses of the

legal nature and finding the optimal characteristics for practical application, especially in transition and emerging technologies. Changing the legal nature meant a change in the quality and quantity of the rights and obligations that a perpetrator in this form of engagement work. Versatility of this institute was founded in the variability of its legal nature, which is not characteristic of most other forms of labor. Practice responds with feedback regarding this variability and determines the optimality of its application in a particular workplace. This type of work in theory had a variety of names (“work at home,” “working per contract,” etc.), it is provocative from the point of legal theory both in defining his idea and in terms of, as mentioned, the determination of its legal nature. Thus, the legal nature is the determinant of its usability in particular economic environment and labor law, and therefore this paper deals with exactly that, as a function of actual applicability, and not exclusively with theoretical interpretation of legal concepts.

## **2. DEVELOPMENT OF INSTITUTES PUT IN THE CONTEXT OF CHANGES OF LEGAL NATURE IN SERBIA**

A brief historical-chronological review of its terminology and definition of the essential characteristics is the condition for understanding of its importance and potential as a function of engagement in work transition and new technologies. It is a form of work which in its original form appeared centuries ago. Changing the shape, name and legal nature of the work it remained in place until today, both in theory and the positive aspects, and is subject to the doctrinal debate, especially about its conceptual definition. “Our theory and legislation are showing interest in the concept of working at home workers since the second half of the eighteenth century. As early as in the Law on courts in 1865 we find the terminology of work at home.” [1] After the Second World War, this institute is for the first time provided for in the Regulation of craft shops and craft enterprises in 1954. However, the whole time is not the duration of affirmatopm of this institute. So the Labour Relations Act of the Republic of Serbia in 1977 [2] prohibited the organization of work “per contract” by the employer, in principle, and allowed it only exceptionally. Law on Labor Relations in 1991 did not provide for the classical institute of work at home, but predicted the possibility of performing work outside the company, but as the form of employment. Law on Labor Relations in 1996 [3 ] as the last “Labour Relations Act” for it was later renamed the Labour Act provides that an employer can perform certain tasks , which are not based employment , to conclude a contract with a particular person , among other things, the performing certain tasks outside the employer’s premises. This contract may be concluded by the employer for making certain items and services outside the premises of the employer , if the performance of these tasks requires workplace. A person who works outside the premises of the employer making the case, or the provision of services (making things homemade, collecting recyclables, sale of books, brochures, newspapers, providing computer services) can be conducted in person or immediate family members, in the name and for the account of the employer . Members of the immediate family are the spouse and children. Labor Law in 2001. [4] has substantially changed the legal nature of the work outside the employer’s premises. An important change from the previous law solution is that the current performance of certain tasks outside the employer’s premises, as a form of engagement work outside of employment, now constitutes the relationship regarding the work that has all the characteristics of employment and is entitled “employment to perform tasks outside employer’s premises’ (Article 28) . In regulat- ing this, the lawmaker envisioned that employment contract, which is based on the special

employment, except issues that should contain the contract under Article 19 Labour Act (treaty -based primary or general employment) does indeed contain some more questions specific to work outside the employer's premises, which require specific arrangements, and whose regulation does not mean, how would this work was carried out in an assumed practical concept. The specificity of the previous Labour Act relating to carrying out activities outside the premises of the employer is evident from the circumstances that it issue a special regulation on the procedure for registration of employment contracts to perform work outside the employer's business and household help. The Legislator does not list in a comprehensive way the performances for which work outside the employer may be employed, most probably thinking that it is a work which by its nature can not be the subject of this work and will determine the employer. It is reasonable to assume that the legislature means that the operation is the business of the employer, the performance of which may be technologically and organizationally dislocated or jobs that are operational activities from the employer. In its previous decision and the law provides that employees work outside the employer's premises may be performed with close family members, except that the term "immediate family" is understood wider than the previous legislature. The current Labour Law [5] adopted in 2005 completely accepts the concept of work outside the premises of the employer in the previous law, except that the formulation of the "working relationship can be established to conduct activities outside the premises of the employer" added "or at home." As in the previous formulation, the ability to work outside the employer's conduct at home entailed the question remains whether this fact in the current law was necessary to specify whether the difference is only theoretical or the practical importance. Within the narrow and more special topics that difference in the formulation of work outside the employer's premises, it would be interesting to discuss, but there is no space for this discussion within this paper. Law in Article 42 provides for the possibility that employment may be established to carry out activities outside the employer's premises, or at home A contract of employment , which is based on the type of employment other than elements which by law includes contract under Article 33 law ("general contract") contains additional elements, as it is edited and the previous legislature, which features work outside the employer's premises. The author believes that this solution is, from the standpoint of expediency, debatable. In this legal solution work outside the employer's premises , or at home , the employee performs alone or with members of his immediate family , in the name and for the account of the employer. From a legal - theoretical point of view it is possible to raise the question of obligation of entering into a legal text states that employees can perform such activities "with members of his immediate family," especially because fact the rights, obligations and responsibilities of employment related only to the employee , and about the status " of immediate family "in terms of rights and obligations no words. It is presumed that the legislator possible issues resulting from the involvement of these persons (injury at work, etc.). Plans addressed in the context of the provisions of the law , but it is not clear how , in the context of employment and work engagement, qualified "immediate family members" and that the employee to the right, to the qualification could achieve. We believe that the legislators on this issue remained incomplete and that the practice can impose questions that can not be solved by the available forms of interpretation of the law. Prediction of the employee the opportunity to work with "immediate family members," without defining the specific rights and obligations , regardless of the status of an employee who performs duties in and on behalf of the employer, created a legal void that calls into question the need for such predictions to help the employee in performing the work relationships outside the employer's premises. If the status of "immedi-

ate family members” is more defined, then the possibility of their involvement should not have been explicitly predicted, it could remain at the level of the employee’s rights, which means, as well as corresponding obligations of the employee to family members in terms of their work engagement. There is no legal basis for the “immediate family members” of the employee to request the employer on any matter of their work engagement. As an employer in any form of work organization must provide conditions for safe operation with contract work to be performed outside his premises can outsource tasks that are dangerous or harmful to the health of employees and other persons, and are environmentally friendly.

### **3. IMPACT OF THE LABOR AND EMPLOYMENT REGULATIONS ON THE CONCEPTUALIZATION AND STANDARDIZATION OF WORK OUTSIDE THE EMPLOYERS’ PREMISES**

Certainly it should be noted that the general definition of working at home our scholars are based on theoretical assumptions (and their main determinants) of international institutions, which, among other things, dealt with this labor law institute, but with elements that leave room for national legislation that affect this definition, to the extent that maintains the essence of working at home workers. The General Conference of the International Labour Organisation at its 83 meeting on 20 June 1996 adopted Convention No. 177 on Home Work and Recommendations on homework R 184 [6] accepting the experience of many of Conventions and Recommendations, “which sets standards of general application relating to conditions of work and can be applied to conditions at home, taking into account the fact that certain conditions specific to work at home, look for improvement in the way the application of those appointed conventions and recommendations on the work at home, as well as to supplement the standards that take into account the specific features of work at home.” According to Section 3 of the Convention No. 177 on Home Work the member state which has ratified the Convention should accept this decision and periodically perform an audit of the national policy in relation to work at home. Methods of implementation of the national policy on home work are: 1) laws and regulations, 2) collective bargaining agreements, 3) the arbitration award, or 4) other appropriate manner consistent with national practice. Special significance for the normative foundation of the institute work outside the premises of the employer was given in the Recommendations on in-house work R 184, which embodies the provisions of the Convention. The term work at home is related to the work of one person (worker in the house) in his house or premises of their choice, which are the premises of his employer, the work to be paid, work that provides goods or services specified by the employer, irrespective who provides the equipment, materials, and all other elements that are involved here. People who have the status of employees can not get the status of workers at home, in terms of recommendations, if only occasionally do their work at home as a work at home instead of in his usual workplace. Further, the Recommendation suggests the application of an entire organization work at home national legislation which, for the most part, our legislation and society, are not able to organize the presented method, mainly due to financial and other important conditions necessary for optimal use of this type of work outside employment. It is a whole series of obligations of participants in the relationships work at home employees, which is primarily related to the matters governed by the agreement on the performance of certain tasks outside the premises of the employer, the employer’s obligation to keep records of all employees under this contract, and the like. The recommendation provides for supervision (control) work at home, which in our country

should involve the jurisdiction of the labor inspectorate, but in practice, this control is not well developed due to the lack of necessary assumptions. The recommendation, then, contains rules about the minimum age limit for performing this work, the right to organize, and (collectively) contracting (establishing conditions), the payment for the work at home (in detail with different variants), the occupational safety and health protection, working time, time of rest and vacation, social security and maternity protection, protection in the event of termination of employment, resolution of disputes, programs related to work at home, access to information in the language employed, where possible. These are all questions that our legislators must take into account when regulating the institute, which is partly realized in the legislation.

#### **4. INSTEAD OF CONCLUSION - IMPORTANCE AND ROLE OF WORKING OUTSIDE THE EMPLOYER'S PREMISES**

In theory, there are several definitions of work at home or home work which shows that the work at home or home work, as a term, at first glance, a broader concept than work at home. It also includes work at home workers, along with other cases of work outside the employer's premises. Any work done at home and is therefore a work at home employee, or a person who performs it home workers. Home workers in theory, law and practice commonly referred to as just that person who work at home for the organization or employer, done under certain conditions, is a regular and main occupation. Accordingly, only the work done at home by such person is perceived as work at home of employees. The usefulness of this form of employment is undeniable, because of its conceptual characteristics, but also because they need to respect each institutionalized forms of engagement work that increases employment. With this engagement, the employer of the work process can adapt most rational and most effective forms of performance and are easier, but so far, decided to dislocation, not only parts of the work process, but also the jobs individually. This flexibility of work is particularly favored through forms of activities that represent new technology. However, regardless of the position of the current legislators to work outside the employer's premises form or type of employment, we are committed to this institution has a form of work out of employment to perform certain tasks, the character of which does not require the relative uncertainty of the time work opportunities. Although these positions is not in our legal theory and practice for us and perform certain tasks outside the employer's premises, as a form of engagement work outside of employment, it is possible and reasonable form of work and there is no reason that he, like the other version of this institute, not overlooked normatively regulated, because, basically not even conceptually, these forms do not exclude, as it creates a relationship regarding the work that differs only in its legal nature, and it determines the nature of the job that requires the perpetrator to a different employment status. This other form of engagement work outside the employer's premises could be included jobs that do not require a job, but are certain or common, and that it is necessary and useful to carry out such work outside the employer's premises or working at home (especially electronic forms to promote new technologies, etc.). By predicting this type of engagement as possible, the employer may, in accordance with the nature of the work, determine the preferred form of the work, which would in each separate case mean new jobs for the available workforce. Prediction of work outside the employer's premises in two forms of status and position of the engaged employee is not over-regulation possible regarding labor relations, rather than creating opportunities for participants regarding the relationship of work to

meet their needs and interests, which are different in certain moments and circumstances of the functioning of the labor process with the employer. The employer would put forth the concept of work outside the employer's premises, had greater leeway in hiring, because the nature of work adapted to their needs for human resources. In certain cases, when it comes to employment as a form of labor, employee, the employer provided all the rights associated on that basis, and in the case when a more appropriate attitude regarding work outside employment provided that the rights it is assumed, some of which, under the previous law, the relevant employment rights (the right to a pension disability and health insurance). Regarding labor rights, which enjoys employees performing work outside the employer's premises, these are rights that are applicable to the nature of work to be done, so that part of the employment rights this work off (e.g. reimbursement for the arrival and departure from work, etc.), but this does not put into question the qualifications of this relationship as employment and the achievement of other employment rights. Due to the specifics of performing these tasks it is emphasized that the agreed fees for labor costs and use of resources for the work are not considered part of wages and other employee benefits. Using the possibilities of changing forms of work, the employer could intensify admission officers, as they would not be restricted in the choice of the most appropriate forms of work and forced to work on the implementation of the work, which - in terms of modes of engagement - are not adequate. Previous legal concept of employment to perform work outside the employer's premises shows that the legislator has not made any progress in arranging the "home work" in our country, bearing in mind the outlines of the above-mentioned Recommendations on work from home R-184, in particular concerning the conditions for carrying out this work and other issues, which would be an important step in the implementation of this important institute of work engagement. The employment to perform work outside the employer is not sufficiently represented in our practice, but because of its rationality, mutual benefits for the employee and the employer, and other advantages, to create the conditions and habits of its significant use. We feel that the standpoint of B. Šunderić is justified that "detailed treatment of this form of decentralized operation requires, above all, an analysis of the socio-economic conditions in which they work, analysis of the factors that motivate the organization (employer) to organize this kind of work and workers to work at home; analysis of social and employment status of workers who perform work at home, and his analysis of the legal methods of editing and form the country as a legal institution." [7]. The blame for the lack of representation of work outside the employer's premises in our practices and economic relations is generally upon the employer and his management, then the state institutions that are not even possible to create the conditions and environment for the implementation of this type of work, or other forms of work outside employment that might be the way recruitment works unemployed (flexible employment). Institutions are uninventive, conservative and without clear direction in solving the problem of unemployment. This primarily refers to the National Employment Service, in which year the final say party cadres water (no matter which political option), whose expertise can be reasonably assumed, not at the request of their work. And the unemployed should show more initiative in any institutional or non-institutional form, indicate the comparative advantage of certain forms of labor. The unemployed should be general job offers potential employers indicate their working ability and in a way that they could be used in the context of the employer's business and the need for certain types of work. Management of business entities need more knowledge of labor law matters through direct, rather than hiring a legal advisor for specific problems. This knowledge has practical significance, and not in the field of theoretical and doctrinal teachings

that management sometimes unnecessarily deals, which often has no applicability to any aspect of the operation of the enterprise. Human resource management is a crucial issue of successful business, because the best material conditions do not guarantee successful business and achieve maximum profit as the goal of business activity. Knowledge of the forms and methods of work engagement is an important part of multidisciplinary education and training of managers and application of new technologies in human resource management, management of the college, in general, do not appreciate enough, which is a long-term, serious lack of education and training manager. Plan of the current need for hiring labor and projections of medium-term and long-term needs is a condition without which it is not possible to rationally manage human resources. Working outside the premises of the employer, whether in the form of employment or work outside of employment is important in transition and emerging technologies and has certain comparative advantages over other types of work (motivation of workers in their own working environment, saving some costs specific to work subsidiary or business unit of the employer, rational organization of labor flexibility in the execution of the operations, etc.) and disadvantages that arise in the context of the specific activity (in the case of the working process in which the employee's work outside the employer's premises important phase, jobs of which are important aspects of communication that is not easy to achieve in terms of dislocation of work, jobs that require substantial financial and technological basis of the assumptions and the like.). This type of work is suitable for individual work as a whole, and not for a segment of the process of work, unless the work can be matched with other phases of the work.

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