

## Abstracts

### Legal Analysis of the Working Time Regulations Reform of 2018

**Hajime Wada** (Nagoya University)

The amendment, in 2018, of working-hours-related provisions in the Labour Standards Act comprises the most significant amendment since 1987. Amongst other revisions, it provides for, 1) an expanded settlement period for the flex-time system, 2) upper limits on overtime hours in Article 36 Agreements, 3) employer-designated annual leave days during specific periods, and 4) the establishment of a system for high-level professionals. Its principal purpose is to implement “work-style reform”, as discussed within the Government over the past few years. The main object of the working hour regulation under the Labour Standards Act is to ensure workers’ health, free time, and to realize a work-life balance. Accordingly, it is necessary to consider the current amendment from this standpoint. The focus of the amended law lies in the strengthening of regulations on overtime hours, and in the introduction of a system for high-level professionals, i.e., the “white collar exemption system”. With respect to said amendment, whilst the incorporation of mandatory provisions into the Labour Standards Act for the first time deserves to be appraised, the upper limit on overtime hours is not necessarily sufficient for protecting workers’ health. Regarding the white collar exemption system, there is no persuasive explanation as to why workers engaged in certain occupations and earning a high income should be excluded from working hour regulations. With regard to working hours, amendments have customarily entailed a trade-off between the strengthening and loosening of regulations, and the same approach has again been adopted this time around. However, it is due to this trade-off, that the philosophy behind working hour regulations has become obscure.

### Scope and Flexibility of the EU Working Time Directive 2003/88/EC: Development, Purpose, and underlying Fundamental Rights

**Shiro Ikawa** (Yamaguchi University)

This article examines the scope and flexibility of the Working Time Directive 2003/88/EC of the European Union (EU). Besides illustrating the relevant provisions in the Directive, it deals with the fundamental rights underlying EU labour laws on working time as well as the development and purpose of the Directive. Consequently, several features become clear: (1) defined by its development, the Directive aims primarily only at the safety and health of workers; (2) despite and/or because of such a limited purpose, the provisions for exceptions and derogation from the rules of the Directive are deemed to be strictly interpreted; (3) in particular, the exclusion of workers from protection under the Directive can be seen as an unjustifiable limitation on their fundamental rights in EU law; (4) it has a catalogue, EU Charter of Fundamental Rights, that provides an explicit guarantee of the fundamental right to limits on maximum working hours, to daily and weekly rest periods, and to an annual period of paid leave, Art. 31 (2); (5) nevertheless this right should have already existed before the codification by the Charter. It is desired that the policy on working time in Japan be also discussed in a manner that respects principles and fundamental rights.

### The Effect of Work-style Reform Legislation on Long Working Hours in Japan

**Isamu Yamamoto** (Keio University)

This study explores how the work-style reform legislation will affect the Japanese labor market. Specifically, we evaluate the effects of enhancing the legal cap on overtime work with a penalty on overtime work hours, on worker’s well-being, and on a firm’s productivity. First, based on the labor demand model and the findings of empirical studies, quantitative regulation in the form of strengthening the upper limit on overtime work rather than reducing the statutory working hours or raising overtime premiums is regarded as effective for reducing work hours. However, it is important to strengthen the functions of supervision and enforcement to make firms comply with the laws and regulations in order to draw out the corrective effect. Second, it is expected that the

reduction of work hours due to work-style reform legislation would improve the physical and mental health of workers, help the realization of WLB for workers, promote diverse human resource utilization in the workplace, and increase the productivity of firms.

Regulatory Reform of Work Hours and the Response of Companies

**Kazuya Ogura** (Waseda University)

We have examined the trends in recent years in order to see how the revised Labor Standards Act (related to work hours) to be enforced starting April 2019 can impact the work hours system and the realities of individual companies. As a result of the examination of existing statistics, we found there is a possibility of violations of the new laws and regulations in ten to twenty percent of businesses with respect to the “regulation on the upper limit of overtime work,” and in thirty to forty percent of workers with respect to the “compulsive acquisition of five-day paid leaves” and the “objective understanding of work hours.” The case study revealed that many companies have already cleared the issue of “regulation of the upper limit for overtime work,” but, relatively speaking, the issues of “compulsive acquisition of five-day paid leaves” and the “objective understanding of work hours” are possibly more problematic.

Deliberation of the Work Style Reform Law and Labor Management Relations: The Legal System for Working Hours

**Sumiko Ebisuno** (Rissho University)

The work-style reform plan was defined in a meeting in which Prime Minister Abe served as chairman in 2017. As a result of the Japanese government’s promotion thereof, the Work Style Reform Law was enacted by the Japanese Parliament in June 2018.

However, some unexpected events occurred in the process of deliberations, because it comprised eight bills, and the workers’ and employers’ delegates had opposing opinions regarding some of them. This article describes why the Japanese government has greatly influenced decision making in labor policy; in other words, why the Labor Policy Council has been losing its power, according to an analysis of the process of deliberation on the Legal System for Working Hours of the Work Style Reform Law. This includes the limit on overtime work, the establishment of a system for advanced professionals, and the expansion of the target businesses of the discretionary labor system. Moreover, this paper discusses the relationship between labor management relations and the Labor Policy Council, and the problems existing therein.