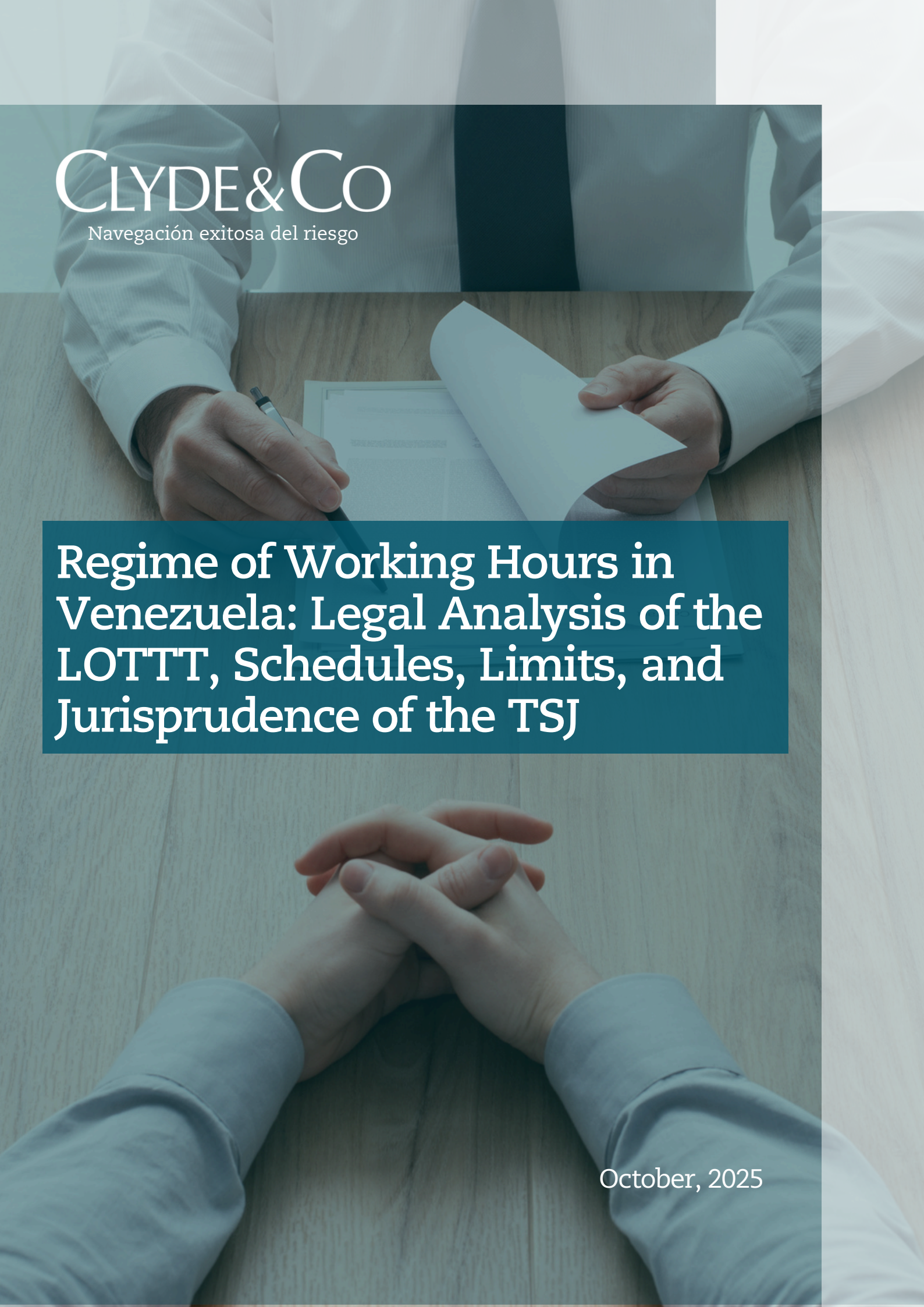


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Regime of Working Hours in Venezuela: Legal Analysis of the LOTTT, Schedules, Limits, and Jurisprudence of the TSJ

October, 2025



Within the framework of Venezuelan Labor Law, the working hours constitute an essential element in the employment relationship, as it defines the period during which the employee is legally subordinated to the employer and is obliged to provide their services in accordance with the legal provisions. A proper understanding of working hours is of particular importance both for the adequate organization of the business and for the protection of the worker's fundamental rights, in accordance with the principles of social justice and balance that inspire the Organic Law of Labor, Workers, and Workers (LOTTT).

The following is an analysis of the different types of working hours provided for in Venezuelan legislation, in accordance with current regulations, labor doctrine, and jurisprudence issued by the Supreme Court of Justice (TSJ).

WORKING HOURS IN VENEZUELAN LEGISLATION

The working day represents the period during which the employee is at the employer's disposal to fulfill the functions, duties, and responsibilities inherent to their job or position. This concept is legally grounded in Article 167 of the Organic Law of Labor, Workers, and Workers (LOTTT), which establishes that every person subject to an employment relationship has the right to a working day that respects the legal limits regarding time, rest, and remuneration.

The study of working hours allows for the identification of ordinary, daytime, nighttime, and mixed modalities, as well as the special regimes established for specific activities that, due to their nature or public interest, require differentiated treatment.



DAYTIME WORKING HOURS

Daytime working hours in Venezuela represent the most common type of work within employment relationships regulated by the Organic Law of Labor, Workers, and Workers (LOTTT). As stipulated by the legislator, this working day spans the period between five in the morning (5:00 a.m.) and seven at night (7:00 p.m.), during which the employee is at the employer's disposal to perform their regular duties. This time frame coincides with the hours of highest economic and social activity in the country, which is why it is the most commonly used schedule by employers in both the public and private sectors.





Maximum Duration and Constitutional Foundation

In accordance with Article 173 of the LOTTT, the daytime working hours cannot exceed eight (8) hours per day or forty (40) hours per week. This limit is constitutionally supported by Article 90 of the Constitution of the Bolivarian Republic of Venezuela, which imposes an obligation on the State to ensure the gradual reduction of working hours as a measure of comprehensive protection for the physical, mental, and social well-being of the worker.

This regulatory framework reaffirms the principle of humanizing work, aimed at preserving the health, safety, and rest of the worker as inalienable labor rights.

Rest and Meals During the Daytime Working Hours

Article 168 of the LOTTT establishes that the worker must enjoy a rest or meal period of no less than one (1) hour within their daily working hours, and that they may not work more than five (5) consecutive hours without such a break. This rest period is not considered part of the effective working time, except in cases where the worker remains at the employer's disposal during this period, in accordance with the interpretative criteria established by Venezuelan labor jurisprudence.

Applicable Remuneration: Ordinary Salary

Regarding remuneration, the work performed during the daytime working hours is paid according to the salary agreed upon between the parties, without additional surcharges. This is provided for in Article 114 of the LOTTT, which defines the normal salary as the regular compensation the worker receives for the usual performance of their services. Only in the case of verified overtime hours will the legal surcharges established for such situations be applicable.

Jurisprudential Interpretation of Effective Working Time

The Social Cassation Chamber of the Supreme Court of Justice, in a ruling dated November 9, 2016 (case of Arialdo José Cordero against the restaurant “Flor de España, C.A.”), clarified the scope of the computation of effective working time within the daytime working hours. In this ruling, the Chamber determined that the plaintiff’s working hours did not exceed eight hours per day, and that the time allocated for rest should not be counted as part of the working day, as it was not proven that the worker remained at the employer’s disposal during that period.

This decision reiterates the strict application of what is stipulated in Article 169 of the LOTTT, consolidating the criterion that rest periods are not included as effective working time unless proven otherwise. Thus, the legal limits of the daytime working day and the corresponding remuneration are maintained, with no additional surcharges outside the specific cases expressly contemplated by the law, as established in the ruling.

"Now, it is evident that the Superior Judge, when examining Article (...) now 169 of the Organic Law of Labor, Workers, and Workers, analyzed the facts and determined that it was not applicable, given that the time for meals could not be attributed to the working day, as the worker is separated from his duties (in this case) while eating; with the colleague in charge of the counter for public service and waiters; and based on the rules of experience, since another colleague held the same position and it was known that the barman could not consume food while providing service, the request was not deemed valid; (...) this fourth claim raised is therefore dismissed."

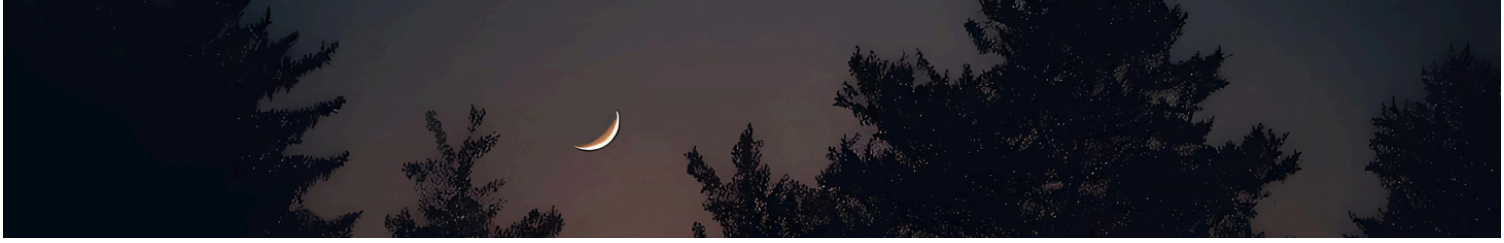


NIGHTTIME WORKING HOURS

Nighttime working hours in Venezuela are regulated by the LOTTT, and encompass the work period between seven in the evening (7:00 p.m.) and five in the morning (5:00 a.m.). This modality applies to tasks that, due to their nature or operational needs, must be carried out during the nighttime hours.
In legal terms, nighttime work constitutes a special form of labor performance that demands greater physical effort and causes additional wear and tear on the worker. For this reason, the legislation establishes more restrictive limits and a higher economic compensation compared to daytime working hours.

Maximum Duration and Legal Foundation

In accordance with the limits established in Article 173 of the LOTTT, the nighttime working hours cannot exceed seven (7) hours per day or thirty-five (35) hours per week. This reduction is in line with the principle of worker protection against the less favorable conditions of nighttime work, in accordance with the constitutional mandate to preserve health, rest, and labor security.
In practice, this modality is frequently applied in essential sectors such as private security, healthcare services, transportation, continuous public services, and the manufacturing industry, where the nature of the activity requires continuous operational capacity.



Remuneration and Legal Surcharge for Nighttime Work

Article 118 of the LOTTT explicitly states that "nighttime work shall be remunerated with a surcharge of no less than thirty percent (30%) over the salary corresponding to daytime work." This 30% surcharge serves as compensation for the more demanding conditions and the greater physical and psychological toll inherent in performing work during the night.
Therefore, the hours worked during nighttime hours must be calculated based on the worker’s normal salary, applying the percentage increase established by the regulation, without prejudice to additional rights arising from overtime work.

Legal Limits and Jurisprudential Criteria on Overtime

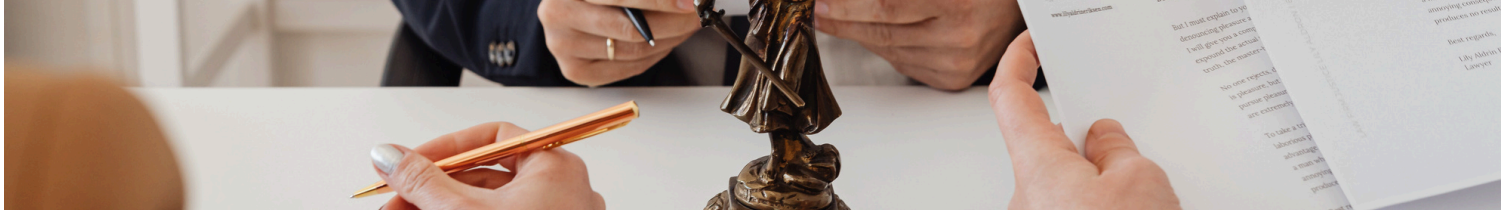
Venezuelan jurisprudence has been consistent in establishing that nighttime working hours cannot extend beyond the legal limits provided in the LOTTT. In this regard, the Social Cassation Chamber of the Supreme Court of Justice, in a ruling dated May 18, 2018 (case of Eoclide Ramón Morillo Osuna vs. C.A. Cervecería Regional), determined that companies, even those claiming to operate under a continuous regime, must respect the ordinary limits of the working day.

Upon verifying that the worker was working eight (8) hours during nighttime hours, the Chamber concluded that this excess should be classified as overtime, stating:

> *"It is clear to this Chamber that we are not dealing with a company subject to continuous schedules (...) consequently, as the employer is not encompassed by the assumption of companies with continuous operating hours, which do not interrupt their work, it is obvious that the working hours during the 'late' and 'dawn' or 'mixed' and 'night' shifts did indeed result in overtime, as they exceeded the legal and contractual limits. Thus, it is established."*

This ruling reaffirms the employer's obligation to adhere to the daily and weekly limits established by law, even in activities that require extended or continuous nighttime shifts.





Treatment of the Mixed Shift with a Nighttime Component

The Article 173 of the LOTTT stipulates that when a mixed shift includes a nighttime period exceeding four (4) hours, it must be considered a nighttime shift in its entirety. Therefore, if the time worked after 7:00 p.m. does not exceed four hours, the worker is only entitled to the 30% surcharge on the hours actually worked during that period.
This criterion was reaffirmed by the Social Cassation Chamber of the Supreme Court of Justice in a ruling dated October 17, 2017 (case of Herminio Jesús Aldana Salas vs. Fuente de Soda Restaurant Bar La Salamandra, S.R.L.), where it was established that:

> "*...The claimant's schedule constituted a mixed shift (...) as in no case did the nighttime period exceed four (4) hours. In light of the above, the nighttime bonus claimed is applicable (...) only for the hours worked after 7:00 p.m., generating a surcharge of thirty percent (30%) on the salary earned during the daytime hours.*"

This ruling consolidates the judicial interpretation regarding the scope of the nighttime surcharge, clearly differentiating between mixed shifts and fully nighttime shifts, in a harmonious application of the LOTTT and the doctrine of the Social Cassation Chamber.

MIXED WORKING HOURS

The mixed working hours in Venezuela constitute an intermediate modality that combines daytime and nighttime work periods, adapting the employer's operational needs to the worker's labor protection guarantees. Its regulation is explicitly provided for in Article 173 of the Organic Law of Labor, Workers, and Workers (LOTTT), which establishes the limits and conditions applicable to this form of service provision.

Maximum Duration and Applicable Legal Regime

In accordance with Article 173 of the LOTTT, the mixed working day cannot exceed seven and a half (7½) hours per day or thirty-seven and a half (37½) hours per week. However, when the nighttime period exceeds four (4) hours, the working day must be considered fully nighttime, generating the corresponding legal and remuneration effects for this modality.

This limit is based on the principle of protection for the health and safety of the worker, as recognized in the Constitution of the Bolivarian Republic of Venezuela and developed by the LOTTT, which aims to balance productive demands with the right to rest, physical recovery, and a healthy work environment.



Practical Application and Common Labor Sectors

In practice, the mixed working hours are frequently applied in industrial sectors, manufacturing, continuous services, transportation, telecommunications, and energy, where uninterrupted operations are essential for the continuity of production processes or the provision of essential services.
This modality allows for the rotation of shifts without violating the maximum working limits established by law, ensuring an equitable distribution of working hours and the observance of the minimum rest and meal periods provided for in Article 168 of the LOTTT.

Salary Regime and Surcharge for Nighttime Work

Regarding labor remuneration, the provisions of Article 118 of the LOTTT, which regulates the surcharge for nighttime work, apply. When the mixed working day includes more than four (4) hours of nighttime work, the worker is entitled to receive the thirty percent (30%) surcharge established for nighttime work, applicable to the entire working day.
However, if the nighttime period does not exceed four hours, the surcharge will be calculated only on the hours actually worked after seven in the evening (7:00 p.m.), in accordance with the principle of proportionality established in Venezuelan labor legislation and developed by the jurisprudence of the Social Cassation Chamber of the Supreme Court of Justice.

This differentiated treatment ensures a balance between economic compensation and the protection of the worker's health, recognizing the additional effort required to perform duties during nighttime hours.

In Summary, the proper management of working hours in Venezuela—whether daytime, nighttime, or mixed—requires a precise interpretation of the Organic Law of Labor, Workers, and Workers (LOTTT) and the jurisprudence established by the Supreme Court of Justice, in order to avoid violations, claims, or sanctions resulting from an incorrect application of the labor regime. In this context, obtaining professional advice from a Venezuelan labor lawyer is essential to ensure legal compliance, optimize personnel management, and prevent legal risks. Our team provides specialized legal services in Venezuelan labor law, focused on defense, consulting, and the regularization of employment relationships in accordance with the LOTTT and the principles of social justice and legal security.

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