



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 01.12.2000
COM(2000) 787 final

REPORT FROM THE COMMISSION

**State of Implementation of Council Directive 93/104/EC of 23 November 1993
Concerning certain aspects of the organisation of working time**

('Working Time Directive')

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1. INTRODUCTION

General observations

This report gives a general overview of the way in which Member States have implemented Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (hereinafter the 'Working Time Directive')¹. In the majority of Member States the implementation has taken place by a great number of different legislative and/or administrative acts and, as the case may be, collective agreements (see Annex). Consequently, in this report it is not possible to provide an exhaustive detailed examination of all national implementation measures. The report will provide a general analysis of the situation in Member States.

The deadline for the implementation of the Working Time Directive was set at the 23rd November 1996 at the latest. However, only Germany, Sweden, Finland, Spain and the Netherlands notified the Commission of their national measures of implementation by the date of implementation. Italy and France are yet to notify all of their national implementing measures officially to the Commission.² The analysis of the measures taken by the latter Member States is, therefore, not based on first hand information from the authorities of the Member States.

In March 1994, the United Kingdom brought an action under Article 173 (now Article 230) of the Treaty for the annulment of the Working Time Directive arguing that the legal base of the Directive was defective. According to the UK, there was no scientific evidence to show that the Directive was a health and safety measure within the meaning of Article 118a (now, after modification, Article 137) of the Treaty. Furthermore, the UK claimed that the Directive did not respect the principles of subsidiarity and proportionality and that the Council had misused its powers as, according to the UK, the Directive encompassed measures which were unconnected with its purported aims. In its Judgement of 18 November 1996 (Case C-84/94), the European Court of Justice annulled the second sentence of Article 5 of the Directive, but dismissed the rest of the application.

At present, four cases have been referred to the European Court of Justice for a preliminary ruling under Article 234 of the Treaty. Two cases (C-303/98 SIMAP v Conselleria de Sanidad y Consumo de la Generalidad Valenciana and C-241/99 Confederación Intersindical Galega (C.I.G) v Servicio Galego de Saude (SERGAS) are essentially concerned with the definition

¹ OJ L 307 13.12.1993 p.18.

² Both Italy and France have been condemned by the European Court of Justice for failure to adopt measures implementing the Directive (Case C-386/98, Commission v. Italian Republic, judgement of 9 March 2000 and Case C-46/99, Commission v. France, judgement of 8 June 2000).

of 'working time' under the Directive in the context of 'on-call' activities of medical emergency personnel.³ The third case (C-173/99 *The Queen v Secretary of State for Trade and Industry*) relates to the possibility of laying down a qualifying period for the entitlement to annual leave under Article 7 of the Directive, while the fourth case (C-133/00 *J. R. Bowden e.a. v Tuffnells Parcels Express Ltd.*) concerns the scope of the exclusions under Article 1(3) of the Directive.

In general, the compliance of the national measures taken with the Directive is relatively good. Nevertheless, in this report the Commission would like to highlight some particular points of concern.

Interplay with Council Directive 89/391/EEC

The Working Time Directive makes an important reference to Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers⁴ at work by stating in Article 1(4):

"The provisions of Directive 89/391/EEC are fully applicable to the matters referred to in paragraph 2, without prejudice to more stringent and/or specific provisions contained in this Directive."

In this respect, the Commission would like to emphasise, in particular, the importance of Articles 2 (scope), 3 (definitions), 7 (protective and preventive services) and 11 (consultation and participation of workers) of Directive 89/391/EC.

Exclusions – Derogations

The Working Time Directive is a relatively complex piece of Community law. In particular, the derogations permitted under Article 17 may cause difficulties in understanding the Directive. Therefore, it may be useful to provide a brief analysis of the derogations allowed and to emphasise that 'derogations' are distinct from the 'exclusions' under Article 1(3) of the Directive.

The Directive applies to all sectors of activity, both public and private, within the meaning of Article 2 of Directive 89/391/EEC, with the exception of air, rail, road, sea, inland waterway and lake transport, sea fishing, other work at sea and the activities of doctors in training ("excluded sectors").

Article 17 of the Working Time Directive permits Member States to derogate from certain Articles of the Directive under specific conditions and, as the case may be, by specific means. The idea of a derogation is to retain the principles set out in the Directive, while allowing flexibility in the application of those principles. There are essentially three types of derogation:

1) Article 17(1) permits derogations from Articles 3,4,5,6,8 and 16 in situations where, on account of the specific characteristics of the activity concerned, the duration of working time is not measured and/or predetermined or can be determined by the workers themselves. The Directive mentions three particular activities for which this derogation is permitted. The list is not exhaustive but should be interpreted *restrictively*.

³ The Court handed down its judgement in this case on 3 October 2000 – see below, Section 3, 'Definitions'.

⁴ OJ L 183 29.6.1989 p.1.

2) Article 17(2) permits derogations from Articles 3,4,5,8 and 16 in accordance with a set of criteria set out in detail in the Directive, followed by examples. Such derogations are permitted on condition that workers are afforded equivalent periods of compensatory rest or that, in *exceptional* cases in which it is not possible, for objective reasons, to grant such equivalent periods of compensatory rest, the workers concerned are afforded appropriate protection.

3) Article 17(3) permits derogations from Articles 3,4,5,8 and 16 by means of collective agreements or agreements between the two sides of industry. In order to respect the industrial relations systems of some Member States, such derogations can be made in the Member States at the appropriate *collective* level. As with Article 17(2), such derogations are permitted on condition that workers are afforded equivalent periods of compensatory rest or that, in *exceptional* cases in which it is not possible, for objective reasons, to grant such equivalent periods of compensatory rest, the workers concerned are afforded appropriate protection.

Recent developments to cover the 'excluded sectors'

On 18 November 1998, the Commission adopted a package of proposals to cover the sectors excluded from the scope of the Directive under Article 1(3).⁵ On the basis of the proposal, Council Directive 1999/63/EC concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Ship Owners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST) was adopted on 21 June 1999.⁶ Furthermore, on 22 June 2000, the European Parliament and Council Directive 2000/34/EC amending Council Directive 93/104/EC concerning certain aspects of the organisation of working time to cover sectors and activities excluded from that Directive was adopted.⁷ Finally, on 23 June 2000, the Commission adopted a proposal for a Council Directive concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA).⁸ The Council reached a political agreement on this proposal on 17 October 2000.

A brief summary of the amendments to the Working Time Directive may be useful in this context although the amended Directive is to be implemented only by 1 August 2003 (2004 as regards doctors in training). The effect of Council Directive 2000/34/EC is to ensure that all non-mobile workers in the excluded sectors are covered by the working time directive and to amend the Directive to cover doctors in training, offshore and railway workers. The amendments will also provide for mobile workers in air, road and inland waterway transport to have adequate rest, 4-weeks' paid annual leave and for their working time to be limited to 48 hours a week on average (as in Directive 93/104/EC). Specific working time provisions will apply to workers in the sea-fishing industry.

The working time of seafarers is covered by Council Directive 1999/63/EC while it is intended that the proposal concerning mobile workers in civil aviation will take precedence over the more general provisions contained in the amended working time directive.

⁵ COM (1998) 662 final.

⁶ OJ L 167 2.7.1999 p.33.

⁷ OJ L 195 1.8.2000 p.41.

⁸ 23 June 2000, COM 382 final.

2. THE SCOPE OF THE DIRECTIVE (ARTICLE 1)

Article 1(2) specifies the *material* scope of the Directive. The Directive applies to

- minimum periods of daily rest, weekly rest and annual leave, to breaks and maximum weekly working time; and
- certain aspects of night work, shift work and patterns of work.

As mentioned, the Directive applies to all sectors of activity, both public and private, within the meaning of Article 2 of Directive 89/391/EEC, with the exception of air, rail, road, sea, inland waterway and lake transport, sea fishing, other work at sea and the activities of doctors in training.

Article 2 of Directive 89/391/EEC states:

"1. This Directive shall apply to all sectors of activity, both public and private (industrial, agricultural, commercial, administrative, service, educational, cultural, leisure, etc.).

2. This Directive shall not be applicable where characteristics peculiar to certain specific public service activities, such as the armed forces or the police, or to certain specific activities in the civil protection services inevitably conflict with it."

The exclusion of some sectors and activities from the scope of the Directive does not necessarily mean that all Member States have excluded them from the scope of the relevant national legislation. Only Greece and the UK have excluded all of these sectors and activities from the scope of the national implementing measures, while many other Member States have excluded some sectors or only part of workers in a given sector.

As regards the personal scope, the Working Time Directive uses the notion of "worker". However, this notion is not defined in the Directive but in Article 3 of Directive 89/391/EEC a worker is defined as

- "any person employed by an employer, including trainees and apprentices but excluding domestic servants"

while an employer is

- "any natural or legal person who has an employment relationship with the worker and has responsibility for the undertaking and/or establishment".

The great majority of Member States apply their relevant legislation to, on the one hand, "traditional" employees working under a contract of employment as defined by national legislation and practice and, on the other hand, to civil servants in the public sector. Not all Member States have, however, notified their national measures in respect of civil servants. In the UK, the coverage of the working time regulations has been extended beyond employees working under a contract of employment.⁹

⁹ The UK Working Time Regulations apply to "workers" who are, in addition to employees under a contract of employment, individuals working under "any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any

In some Member States, categories of workers other than those working in the excluded sectors and activities referred to in Article 1(3) of the Directive have been entirely excluded from the scope of the relevant implementing legislation. These workers may sometimes fall under Article 17(1) of the Directive. However, Article 17(1) allows derogations from Articles 3,4,5,6,8 and 16, but refers to due regard for the general principles of the protection of the safety and health of workers.

Belgian legislation excludes persons employed by 'fair operators', persons in an executive or fiduciary position, persons employed by central government on a contractual basis, doctors, veterinary surgeons and dentists from the scope of provisions on working time and rest periods (although these workers are entitled to annual leave).

Under German law, managers (*leitende Angestellte*), are not covered by legislation on working time and rest periods. The exemption for this group is general in its nature. The same considerations apply to managers in the public administration and to leading physicians, who are both exempted. However, provisions in respect of annual holiday apply to such workers.

In Spain, senior managers working under a contract of employment are excluded from the scope of the national implementing measures. In addition, the public medical emergency services in some autonomous Communities of Spain are not covered by the general legislative provisions on working time and rest periods. It is not clear what working time rules apply to other parts of the Spanish public sector.¹⁰

In Italy, company managers, travelling salesmen and public services and offices are excluded from the scope of general legislation on working time and rest periods.

Dutch legislation excludes the application of the majority of the provisions on working time and rest periods to, among others, executive or senior personnel, scientific research and medical specialists, general practitioners, doctors employed in nursing homes, environmental officers and dentists.

Austrian law also expressly excludes managers (*leitende Angestellte*) from the application of the relevant legislation on working time and rest periods.

In Finland, the three categories mentioned under Article 17(1) of the Directive have been entirely excluded from the scope of the legislation on working time and rest periods. These are: employees who manage businesses or who operate independently and who can be directly compared to the managers of businesses, workers officiating at religious ceremonies in churches and religious communities (for example clergymen and organists) and workers who carry out work at home or elsewhere in circumstances in which it cannot be considered the employer's duty to supervise the arrangement of working hours.

Swedish legislation excludes employees in managerial or similar positions from the scope of the relevant legislation.

work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any other profession or business undertaking carried on by the individual."

¹⁰ In its judgement in the SIMAP case (303/98), the European Court of Justice held that an activity such as that of doctors working in medical emergency services falls within the scope of the Working Time Directive.

The UK regulations provide for a category of workers whose working time is partially measured or predetermined or cannot be determined by the worker himself but the specific characteristics of the activity are such that, without being required to do so by the employer, the worker may also do work the duration of which is not measured or predetermined or can be determined by the worker himself. In the case of such workers, the limits on working time and night work are not applicable. The scope of this category of workers in relation to the Directive would not seem to be entirely clear.

3. DEFINITIONS (ARTICLE 2)

Article 2(1) of the Directive defines working time as "any period of time during which the worker is working, at the employer's disposal and carrying out his activities or duties, in accordance with national law and/or practice."

Article 2(2) defines rest period as "any period which is not working time".

In general, national implementation measures tend to reproduce, at the very least, the Directive's definition on 'working time' and, conversely, on 'rest period'. However, in many Member States the definition of working time would seem to be more favourable to workers than the one in the Directive. In some Member States such as Sweden and Denmark legislation does not contain express definitions on working time or rest period as these notions are traditionally defined by collective agreements and/or case law. However, in both of these Member States there are provisions dealing with intermediate categories such as stand-by duty, travelling time etc. It may, thus, be concluded that in these Member States these notions are defined through national practice and custom.

Most Member States provide for some intermediate categories (readiness to work, on call duty etc.) which are not defined by the Directive. These intermediate periods are characterised by the fact that the employee is not carrying out work, but has to be ready to work if necessary. The distinctions between the different intermediate categories are linked to the degree of availability, which the employee must give to the employer i.e. whether the employee must remain immediately available, whether the employee must stay at the workplace, or whether he can stay in a freely chosen place. These different notions may be qualified differently in Member States.

In the SIMAP case (C-303/98), the European Court of Justice held that time spent on call by doctors in public medical emergency services must be regarded as working time, and where appropriate as overtime, within the meaning of the Working Time Directive, if they are required to be at the health centre. According to the Court, if the doctors must merely be contactable at all times when on call, only time linked to the actual provision of medical emergency services must be regarded as working time.¹¹ Night time is defined as "any period of not less than seven hours, as defined by national law, and which must include in any case the period between midnight and 5 a.m..

Night worker is "any worker who during night time works at least three hours of his daily working time as a normal course; and "any worker who is likely during night time to work a certain proportion of his annual working time, as defined by national legislation (following

¹¹ The Commission is examining the impact of the Court's judgement on Member States' provisions concerning on call duty.

consultation with the two sides of industry) or collective agreements or agreements between the two sides of industry at national or regional level."

Not all Member States have adopted the two definitions, as the structure of the provisions on night work is often different from that of the Directive. Therefore, in most Member States "night time" is defined but a distinction between a "worker" and a "night worker" is not necessarily made.

Under Belgian law, night work is work performed between 8 p.m. and 6 a.m. This definition is further clarified in a Royal Decree, which states the circumstances in which working time provisions provide for night work.

In Denmark, the notions of night time and night worker have been defined solely in collective agreements. The information available to the Commission does not permit a further analysis of the situation in Denmark.

German legislation states that night time is the time from 11 p.m. to 6 a.m. (in bakeries from 10 p.m. to 5 a.m.), while night work is any work which contains more than two hours of night time. Night workers are those who have to, according to their work schedule, normally perform night-work during rotating shift work or who perform night work on at least 48 days in a year.

Under Greek law, night time means any period of eight hours beginning at 10 p.m. and ending at 6 a.m. Night worker is defined as a) any worker who, during night time, works at least three hours of his daily working time or b) any worker who has to perform night work for at least 726 hours of his annual working time, unless a smaller number of hours is provided for in collective agreements or other rules. In calculating the above time, the worker's total daily working time shall be taken into account, provided this includes at least three hours between the period of 12 midnight to 5 a.m., irrespective of the time at which the shift begins and ends, and provided the duration of work is at least seven continuous working hours.

In Spain, night work is any work performed between 10 p.m. and 6 a.m. This also applies to work of which a certain percentage is performed during night time, this percentage being fixed at one third of the total hours worked. A night worker is any worker who, during night time (i.e. between 10 p.m. and 6 a.m.), normally works at least three hours of his daily work schedule as well as any worker who is likely to work at least one third of his annual working time during night time.

In France, work between 10 p.m. and 5 a.m. is considered to be night work. However, collective agreements may further provide for an alternative period of seven consecutive hours, between 10 p.m. and 7 a.m., in substitution for the aforementioned period. Although the range is greater, a choice can be made within this period. In order to be implemented, this derogation is subject, either to the conclusion of a new agreement within the company or establishment, or to the authorisation of the labour inspectorate.

In Ireland, the notion of night time means the period between midnight and 7 a.m., while night work means work carried out during night time. Night worker has a dual definition: a) an employee who normally works at least 3 hours of his or her daily working time during night time and b) an employee whose working hours during night time, in each year, equals or exceeds 50 per cent of the total number of hours worked by him or her during that year.

In Italy, with the exception of the work of apprentices, there is no general definition of night time or night worker.

Under Luxembourg law, neither night work nor night worker are defined as there is no general legislation on night work.

Under Dutch law, night work is work which covers all or part of the period from 12 midnight to 6 a.m.

In Austria, there are no general rules on night work. Consequently, the notions of night work and night worker are not defined at general level. However, the Nachtschwerarbeitsgesetz, which applies in certain specific conditions, contains a definition on night work according to which night work is performed by a worker working at least six hours between the times of 22.00 and 6.00. See also chapter 9 below.

In Portugal, night-work means work performed for a minimum duration of seven hours and a maximum duration of 11 hours and including the period between 00.00 and 05.00. The period of night working has to be established by collective agreements subject to the above definition of night work. In the absence of a collective agreement, the period of night working is deemed to be between 20.00 on one day and 07.00 the following day.

In Finland, night work is defined as work, which is carried out between 23:00 and 06:00. The term night worker is not expressly defined in the law but it is, however, laid down that a night shift is considered as a work shift of which at least three hours occur during the period between 23:00 and 06:00.

In Sweden, the terms night and night work are not legally defined in the general working time legislation but they are defined in the regulations issued by the National Board of Occupational Safety and Health. The definitions are consistent with the definitions of the Directive. In the general working time legislation there is a provision on nightly rest periods which is based on a definition of night as the time falling between midnight and 05:00.

In the UK, the period of 11pm - 6am has been selected as a default night time unless a relevant agreement sets an alternative within the limits provided, (e.g. 10pm - 5 am or 12 p.m. - 7am). Night worker means a worker (a) who, in the normal course, works at least three hours of his daily working time during night time, or (b) who is likely, during night time, to work at least such a proportion of his annual working time as may be specified in a collective agreement or a workforce agreement. For the purpose of paragraph (a) of this definition, a person works hours in the normal course if he/she works such hours on the majority of days on which he/she works.

The concepts of shift worker and shift work in Member States are set aside in this context due to the relatively limited provisions applying to such workers under the Directive.

4. DAILY REST PERIOD (ARTICLE 3)

Article 3 of the Directive lays down a minimum daily rest period of 11 consecutive hours per 24-hour period. Derogations from Article 3 are allowed in all the three cases of derogation mentioned above.

In Belgium, workers must have a rest period of 11 consecutive hours per 24-hour period. However, "fair operators", commercial representatives, doctors, veterinary surgeons and dentists are excluded from daily rest provisions.

In Denmark, the main rule is that working time must be adjusted in such a way that the employees have a minimum rest period of 11 consecutive hours per 24-hour period.

In Germany, it is required that the employee has an uninterrupted rest period of at least 11 hours after the end of the daily working time. It is allowed that in certain undertakings the daily rest period may be reduced by one hour, if any such reduction is compensated by another rest period of 12 hours within a reference period of 4 weeks or a month. German law on the public sector does not provide explicitly that civil servants should have a daily rest period. However, in such cases the period of rest each day may be inferred from the stipulated maximum daily working time, which guarantees a daily rest period of at least 11 hours.

Greek law provides that for every 24-hour period, the minimum rest period shall not be less than 12 consecutive hours. Derogations from this provision are allowed within the limits set out by the Directive.

According to Spanish legislation, there has to be at least 12 hours between the end of one working day and the beginning of the next. To ensure that this limit is observed, it is also specified that the number of normal working hours actually worked may not exceed nine hours, although working hours may be distributed differently as a result of collective bargaining. Even here, though, the minimum rest period between working days must be observed.

Under French law, every employee is entitled to a minimum daily rest period of 11 consecutive hours. This rule can be derogated from by means of collective agreement within certain limits.

In Ireland, the legislation provides for a rest period of no less than 11 hours within each 24-hour period. Derogations are allowed in specified cases.

In Italy, there is no provision laying down a daily rest period.

Luxembourg law provides that the standard hours of work may not exceed eight hours per day. However, this rule is subject to derogations. The Luxembourg law leaves open the possibility for shorter daily rest than as prescribed by the Directive.

In the Netherlands, employers must organise work in such a way that workers have a rest period of 11 consecutive hours per 24-hour period. This rest period may be reduced to eight consecutive hours per 24-hour period no more than once a week. This derogation is intended to permit changes of shifts where shift systems are used and, where overtime is worked, to avoid the necessity of increasing the rest period, which would cause the following shift to begin later.

In Austria, the main rule is that the employer may not require the worker to work for a period of 11 hours after the end of the daily working time. Daily working time is defined as working time within an uninterrupted period of 24 hours. Derogations from the main rule are allowed in special cases.

Portuguese legislation (Act 21/96) provides for a minimum interval of 12 hours between normal working days. The minimum period of 12 hours between normal working days applies only to businesses that, on the date when the law entered into force, had a working week

longer than 40 hours, which they were obliged by law to reduce to 40 hours. This has been supplemented by Act 73/98 which states that workers must be granted a minimum rest period of 11 consecutive hours between two consecutive working days.

In Finland, it is required that workers have an uninterrupted rest period of at least 11 hours during the 24 hours most closely following the commencement of the shift. Some exceptions to this rule are made in 11 specific cases. A temporary derogation from the main rule is allowed for no more than three daily rest periods in succession in respect of seven specific situations. Compensatory rest is provided in these cases. Exceptions by national level collective agreements and by agreement between the employer and the workers' representative are also possible. In the latter case the worker concerned must give his agreement.

Swedish legislation contains no single measure, which can be said to correspond to Article 3 of the Directive. Collective agreements may deal with the issue but, according to the information available to the Commission, it is unusual that they would contain express provisions relating to the daily rest period. Therefore, the question is whether it can be assumed that the courts could nevertheless be expected to uphold a principle on a worker's right to a daily rest period which is consistent with the requirement of the Working Time Directive. It is likely that they will consider a condition, which obliges the worker to work more than 11 hours as null and void. However no special rule is provided.

The UK working time regulations copy out Article 3 of the Directive by stating that "an adult worker is entitled to a rest period of not less than eleven consecutive hours in each 24-hour period during which he works for his employer." Derogations are allowed in specified cases.

5. BREAKS (ARTICLE 4)

Article 4 lays down a rest break for every worker where the working day is longer than six hours. The details of the rest break shall be laid down in collective agreements or agreements between the two sides of industry or, failing that, by national legislation. The provision may be derogated from in accordance with Article 17.

In most Member States, the implementation of Article 4 of the Directive is carried out by way of a combination of legislative measures and collective agreements. The statutory rules tend to fix both the longest times a worker may work without a break and the duration of the break.

Belgian legislation provides for a break at least every 6 hours. The precise duration and other conditions have to be set by collective agreements. In the absence of these, a worker is entitled to a break of 15 minutes.

In Denmark, an Order issued pursuant to the Working Environment Act contains a provision on the possibility on the part of the Danish Working Environment Service to require, among other things, rest breaks during work which can particularly endanger safety or health. The provision does not allow a general requirement for rest breaks to be imposed unless the working day exceeds six hours. Special qualifying circumstances, for example the performance of work under risky conditions, may apply. Article 4 of the Directive on rest breaks is accordingly, for the most part, entrusted to implementation by means of collective agreements.

German law requires a break of at least half an hour if the working time is longer than 6 hours.

Greek law provides for a break of at least 15 minutes when the working day is longer than six hours. The details with respect to the duration and the terms of the break may be defined at the level of the company between the employer and the workers' representatives, unless collective agreements or legislation provide otherwise.

Spanish law gives employees the right to a break of at least 15 minutes during working days exceeding 6 hours.

French law provides that the employee has to be granted a minimum rest break of 20 minutes unless agreements provide for more favourable terms for the worker.

Irish law provides for a break of at least 15 minutes every 4-½ hours and of at least 30 minutes if the work is longer than 6 hours. Derogations are allowed in specified cases.

In Italy, legislation provides that normal breaks must be laid down in advance and expressed in time. Collective agreements often contain detailed rules dealing with breaks.

Luxembourg legislation provides for a minimum of 30 minutes break if the working day is longer than six hours.

Dutch law provides for a break at least every 5-½ hours. The duration of the break must be determined by the duration of the work. Collective agreements can derogate from this norm, but must fix a break of at least ½ an hour. This may be divided into two breaks of ¼ of an hour.

The general rule under Austrian law provides for a break of ½ an hour if the working time is longer than 6 hours.

Portuguese legislation provides that the daily working period must be interrupted by a period of not less than one hour and not more than two hours so that workers do not perform more than five consecutive hours of work. Furthermore, collective agreements may provide for work to be performed for up to six consecutive hours and for the daily break to be reduced to 30 minutes or to last longer than provided in the standard rule above and for the frequency and duration of any other breaks during the daily working period.

In Finland, the provisions of the Working Time Act state that the worker must, if working hours per day exceed six hours and the worker's presence at the workplace is not necessary for work to continue, be given an opportunity for a regular break of at least one hour during which time he may freely leave the workplace. In any case, the break is to be at least half an hour. There is a special provision governing working time on shiftwork or on rotating shiftwork, which exceeds six hours. The rule states that the worker must be given, either an opportunity to have at least half an hour break, or an opportunity to take a meal during working hours.

Swedish legislation does not fix a minimum duration for breaks. The workers are entitled to a break at least every 5 hours. The employer must indicate the duration and the scheduling of the breaks in advance as precisely as the circumstances permit. Their duration and scheduling has to be such that working conditions do not suffer.

The UK regulations provide for a break if a worker has a working day of more than 6 hours, the details of which, including its duration and the terms on which it is granted, has to be in accordance with provisions contained in a collective agreement or a workforce agreement. The break must be of at least 20 minutes.

6. WEEKLY REST PERIOD (ARTICLE 5)

Article 5 requires an uninterrupted rest period of 24 hours for each seven-day period plus the 11 hours daily rest referred to in Article 3. In other words, Article 5 provides for a 35 hour rest period for every period of seven-days. Article 5(3) allows a rest period of only 24 hours under special conditions. Article 16(1) provides for a reference period of 14 days. Article 17 allows derogations from Article 5 and 16(1) under certain conditions. The Directive originally contained a provision that the weekly rest period should in principle include Sunday. This provision was annulled by the ECJ in Case C-84/94.¹² However, nine of the 15 Member States have specific provisions relating to Sunday rest while the other six do not.

In Belgium the main rule is that Sunday working is prohibited. However, derogations are allowed. Workers who work on Sunday are entitled to compensatory leave. The duration of the daily rest period of 11 hours is in addition to the Sunday rest referred to or in addition to the compensatory leave, in such a way that the worker has a rest period of 35 consecutive hours. However, "fair operators", commercial representatives, doctors, veterinary surgeons and dentists are excluded from the scope of the weekly rest provisions.

Under Danish law, Article 5 of the Directive is implemented in the Working Environment Act. The main rule is that workers must, within each seven-day period, have a weekly day off which must be directly linked to a daily rest period.

Under German law, there is a general rule requiring a 35 hours uninterrupted rest period. In principle, employees must not be employed on Sundays between 0 am and 24 p.m.. This Sunday rest must be granted together with the daily rest period, unless technical or organisational reasons prevent it. The law does not provide explicitly that *civil servants* are always entitled to an uninterrupted weekly rest period of 35 hours. However, under the legal provisions to which federal and *Land* officials are subject, Sunday and (usually) Saturday are non-working days, which thus ensures an uninterrupted weekly rest period of at least 35 hours.

Under Greek law, the Presidential Decree 88/99 lays down a minimum weekly rest period of 24 hours, plus the 12 uninterrupted hours' daily rest. If justified for objective or technical reasons or by work organisation conditions, a minimum rest period of 24 hours may be allowed.

Under Spanish law, workers are entitled to a minimum weekly rest period of one and a half days, which may be accumulated over a period of 14 days. In principle, the weekly rest period coincides with the full day of Sunday. In accordance with Article 17 of the Directive, there are special rules for certain jobs and sectors of activity according to the organisational demands or the particularities of the type of work or the place where it is carried out.

In France, there is a general principle of Sunday rest which is, however, subject to a number of derogations. Such derogations are permanent or optional on an individual or collective basis. The 11 hours' daily rest is to be added to the 24 hours of weekly rest.

In Ireland, the Working Time Act essentially reproduces Article 5 of the Directive. An option to lay down a reference period of 14 days is provided in accordance with Article 16(1) of the Directive. Derogations are allowed in specified cases.

¹² Case C-84/94 United Kingdom of Great Britain and Northern Ireland v Council of the European Union. ECR 1996 I-5755.

In Italy, there is a right to a weekly rest period of 24 hours, which should, in principle, coincide with Sunday. However, there are certain derogations to this rule. In the absence of rules on daily rest, no link between weekly rest and daily rest is established.

In Luxembourg, legislation requires the observance of weekly rest, on Sunday. However, there are a number of derogations depending on the type of work or type of activity (e.g. in the retail business, the hotel trade, agriculture, transport undertakings, the entertainment industry, etc.), or in view of the urgency of certain types of work. The same applies when the closure of an establishment would compromise its normal operation, owing to the significance of the Sunday turnover. In practice, the (implicit) length of the weekly rest period is 44 hours.

Dutch legislation provides for an uninterrupted rest period of 36 hours per seven-day period, or 60 hours per nine-day period. In the latter case, the rest period may be reduced to 32 hours once every five weeks. The derogation from the main rule is general without making a reference to the grounds and specific activities referred to under Article 17 of the Directive.

Austrian legislation provides for a weekend-rest (Wochenendruhe) or a week-rest (Wochenruhe) of at least 36 hours. The difference relates to the question if Sunday is included or not. Derogations are allowed in special cases.

In Portugal, legislation provides for one day's rest per week (Decree law 409/71). Act 73/98 adds to this rule by stating that this compulsory weekly rest must be supplemented by a period of 11 hours. In principle, the weekly rest coincide with Sunday.

In Finland, working hours must normally be arranged in such a way that the worker has a period of time off of at least 35 hours' duration without interruption once per week which, as far as possible, has to be arranged to coincide with Sundays. This time off can be arranged so that it totals 35 hours on average during a period of 14 days. The time off must total at least 24 hours per week.

In Sweden, legislation requires workers to have a minimum of 36 consecutive hours of free time during each period of seven days. The weekly rest period does not include time on stand-by, during which the worker may be absent from the workplace but should remain at the employer's disposal to carry out work should the need arise. The weekly rest period should as far as possible occur at the weekend.

The UK regulations effectively reproduce Article 5 of the Directive by stating that an adult worker is entitled to an uninterrupted rest period of not less than 24 hours in each seven-day period during which he works for his employer. The daily rest period is added to the weekly rest provision. The UK legislation also provides a reference period not exceeding 14 days.

7. MAXIMUM WEEKLY WORKING TIME (ARTICLE 6)

Article 6 requires that the average working time for each seven-day period, including overtime, does not exceed 48 hours. For the calculation of the average, Article 16(2) allows a reference period of 4 months, from which periods of annual leave and sick leave have to be excluded. Article 16(2) may be derogated from in the cases provided for in Article 17(1), 17(2)(1), 17(2)(2) and 17(3). Article 17(4) allows, when a derogation from the reference period is allowed, a prolongation of the reference period up to 6 months. However, Member States can allow collective agreements or agreements concluded between the two sides of industry to set reference periods of up to twelve months for objective or technical reasons or reasons concerning the organisation of work. Article 6 can be derogated from in the cases

provided for in Article 17(1). According to Article 18(1), a Member State has an option not to apply Article 6, provided that it takes the detailed measures set out under Article 18.

The analysis of the implementation of Article 6 is, in some cases, difficult due to the differing ways of limiting the maximum working time in different Member States. Instead of limiting the average working time during a given reference period, many Member States lay down an absolute daily and/or weekly limit while allowing overtime within daily, weekly, monthly or yearly limits.

Belgian legislation states in general that working time may not exceed 39 hours a week. However, the effective working time on a weekly basis can be up to a maximum of 40 hours a week provided that the worker is granted compensatory rest in order to guarantee that annual working time does not exceed 39 hours a week. Specific derogations for some types of work organisation such as shift work are allowed, for some sectors such as transport. The derogations are only permitted provided that over a period of three months no more than 39 hours a week on average are worked. The reference period of three months can be extended to one year by a Royal decree after consultation of the social partners and by a collective agreement. In the absence of a collective agreement, company working rules regulations (règlement de travail), adopted by the company after the consent of the works council and after the consultation of the workers in the absence thereof, can also extend the reference period. These extended working time systems also have to respect some absolute limits such as a daily maximum up to 11 hours (with some exceptions up to 12 hours a day) and a weekly maximum of 50 hours (with some exceptions up to 56 hours). Persons in an executive or fiduciary position and persons employed by fair operators, commercial representatives, doctors, veterinary surgeons and dentists are excluded from the scope of the limits on working time.

Danish legislation does not contain provisions corresponding to Article 6 of the directive. The implementation of Article 6 is accordingly, as a rule, entrusted to implementation by means of collective agreement. There is no comprehensive analysis of the collective agreements implementing the Directive.

German law does not directly provide a limit for weekly working time. Instead, it establishes a maximum daily working time for working days. The daily working time must not exceed 8 hours on working days (Sunday and public holidays are excluded from working days). Furthermore, daily working time on working days can be extended to 10 hours on every workday if, in a reference period of 6 months or 24 weeks, 8 hours on an average are not exceeded. However, the general rule under Article 16 of the Directive is that the reference period may not exceed 4 months. German law also provides that a collective agreement may lay down a longer reference period for the weekly working time. However, the legislation does not limit the possible period to 6 or 12 months and it does not require special reasons for a period longer than 6 months. Daily working time may be extended to 10 hours on 60 days a year "without compensation". Accordingly, the average weekly working time can exceed 49 hours for the whole year.

Greek legislation provides that, without prejudice to the legislation previously (prior to Presidential Decree 88/99) in force, the maximum weekly working time may not exceed an average of 48 hours over a 4-month reference period, including overtime. Derogations are allowed in the cases referred to in Article 17 of the Directive.

In Spain, the general limit is 40 hours per week on average, calculated on an annual basis. However, the limit applies to "normal" working hours and therefore does not include

overtime, which - if taken - may mean the limit is exceeded. However, a minimum rest period of 12 hours between working days must be respected and there is a maximum limit of 80 hours of overtime per year.

Under French law, average weekly working time calculated over any period of 12 consecutive weeks may not exceed 46 hours. In the course of a single week, working time may not exceed 48 hours. Derogations may be applied by way of exception, in certain sectors, regions or undertakings. The recent law on the reduction of working time lays down a standard weekly working time of 35 hours. The annual limit is 1600 hours.

In Ireland, the Working Time Act lays down that an employer must not allow an employee to work more than 48 hours in any seven-day period. The employer has the right to calculate the 48 hours as an average of overall working time over a four-month period. The reference period may be extended to 6 months in cases where the employee is engaged in an activity covered by Article 17 of the Directive. A longer reference period may be laid down by means of a collective agreement, provided the employee is engaged in an activity where there are seasonal variations in the weekly working time or it should not be practical for technical reasons or having regard to the organisation of the work or on other objective grounds. However, a reference period of no more than 12 months can be agreed.

In Italy, the general rule lays down a maximum daily working time of eight hours and a maximum weekly working time of 40 hours. However, overtime is allowed within the following limits: 8 hours per day, 12 hours per week, 80 hours per quarter, 250 hours per year. Furthermore, if the working time of an individual worker exceeds 45 hours in a given week, the employer must notify the competent authority. Collective agreements tend to lay down a maximum working time of 38 to 40 hours in the private sector and 36 hours in the public sector. Collective agreements at national level may allow the average maximum regular working time to be calculated over a period of 12 months.

In Luxembourg, legislation requires that normal working time does not to exceed 8 hours a day and 40 hours per week. The total working time may not exceed 10 hours a day and 48 hours per week. Therefore, the standard upper limit is 40 hours, which may be increased exceptionally to 44 hours and, in some cases, to 48 hours a week. In such exceptional cases the workers are entitled to compensatory rest.

In the Netherlands, the standard rule fixes a maximum of 45 working hours per week and an average of 40 hours per week calculated over a period of 13 weeks. In the case of occasional overtime, a maximum of 54 hours per week and an average of 45 hours per week calculated over a period of 13 weeks may be worked. Derogations may be adopted by means of collective agreements. Two reference periods are fixed: a maximum average of 50 hours per week over a four-week period and a maximum average of 45 hours per week over a 13-week period. In case of occasional overtime, a maximum of 60 hours per week and an average of 48 hour per week calculated over a period of 13 weeks may be worked.

In Austria, the normal weekly working time may in principle not exceed 40 hours. Under a 'different distribution of working time', however, the maximum weekly working time may be increased by collective agreement up to a maximum of 50 hours over a reference period of up to 8 weeks and up to a maximum of 48 hours over a longer consecutive period provided the average working time over this period does not exceed 40 hours or the normal working time as fixed by collective agreement. The reference period may be extended by collective agreement to 12 months.

Portuguese legislation provides that the average weekly working time may not exceed 48 hours on average over a reference period of 4 months. This reference period may be extended to 12 months by collective agreement. The average 48 hours allowed includes any overtime or additional work that is performed.

In Finland, the legislation is based on a combination of two rules – one determining the maximum length of regular working hours and the other setting limits for the number of hours of overtime allowed. Regular working hours are restricted to a maximum of eight hours per day and 40 hours per week, while the maximum number of overtime hours is 138 hours over a period of four months. Overtime may not exceed 250 hours, however, in one calendar year. Collective agreements and local agreements between the employer and the elected workers' representative may derogate from the limits laid down by the legislation. Contractual freedom is, however, generally subject to the restriction that regular working hours based on a collective agreement may not exceed an average of 40 hours per week over a period of a maximum of 52 weeks and the limit on supplementary overtime is 80 hours in a calendar year.

In Sweden the general rule is that "regular working hours" per week may not exceed 40. However, it is possible to calculate the 40 hours per week on average over a period of a maximum of four weeks when this is necessary in view of the nature of the work or general working conditions. General overtime is limited to a maximum of 48 hours over a period of four weeks (or 50 hours over a calendar month) with a maximum of 200 hours per calendar year. However, in the great majority of cases the provisions contained in collective agreements derogate from the general rules. The so called Community law restriction guarantees that the requirements in terms of limits on weekly working hours in the Directive are not infringed by collective agreements.

The UK working time regulations state that the average working time shall not exceed 48 hours per seven-day period. The standard reference period in the UK is 17 weeks equalling the 4 months as laid down by the Directive. It can be prolonged to 26 weeks in special cases. Furthermore, workers and employers may also agree under a workforce or collective agreement to extend the reference period to a period up to 52 weeks. However, the UK has also taken advantage of the possibility provided in Article 18(1)(b)(i). The conditions laid down by Article 18(1)(b)(i) are referred to and there is an additional requirement that the agreement must be in writing.

8. ANNUAL LEAVE (ARTICLE 7)

Article 7 requires paid annual leave of at least four weeks and prohibits replacement of the leave by an allowance in lieu. The Directive does not provide for any derogations from Article 7. It is important to emphasise that Article 7 requires the cumulation of two elements: 1. 'leave' i.e. a period off work during the regular work schedule as laid down by national law and/or practice and 2. 'payment' i.e. the right to normal wages or equivalent compensation during the leave period although work is not performed.

Belgian law provides for paid leave of at least 4 weeks. Blue-collar workers are not paid wages during their leave. Instead they receive their holiday wages from a holiday savings scheme to which the employer is affiliated (14.8% of the gross earnings for the previous year). White-collar workers are paid their normal wage by the employer, plus an additional allowance equal to 1/16 of their gross monthly salary. However, due to the fact that annual

leave is always earned during the previous calendar year before it can be used, workers cannot take any paid leave during the first year of their employment.

Danish law provides for 30 days' annual leave (5 weeks). The leave represents 2 ½ days for each month's employment in a year. Employees are granted a holiday allowance of 12 ½ % of the salary. According to the legislation, a holiday allowance cannot be paid to a worker unless he takes leave. However, in special circumstances, an allowance in lieu may be paid regardless of whether leave is taken. This applies if the amount is no more than 500 DKK, the worker has reached the age of 67, the worker has reached the age of 60 and is in receipt of a pension in accordance with Social Pension Act, the worker has reached the age of 60 and is in receipt of an old age and disability pension under an approved pension scheme or when the worker is in receipt of an early retirement pension in accordance with the Unemployment Insurance Act.

German law provides for paid leave of at least 24 working days, which corresponds to 4 weeks. The employee may only take the leave after a period of 6 months has elapsed. The employee is entitled to pro rata temporis paid leave if the relationship ends before the 6 months period is fulfilled and in the first year of the relationship. If the employment relationship lasts less than 12 months, the employee who has not yet had paid leave is given an allowance in lieu.

Greek legislation lays down an entitlement to 4 weeks paid annual leave. However, this entitlement is subject to a qualifying period of continuous employment of at least 12 months.

Spanish law provides that any leave agreed to may not be less than 30 calendar days. No derogations are allowed from this rule.

French legislation provides that every worker is entitled to annual leave, the duration of which is determined on the basis of 2 ½ working days per month. Therefore, an employee working for the whole of the reference period has a minimum of 5 weeks leave.

Irish legislation is based on the main principle concerning an employee's right to four weeks' annual leave per year as and from 1st April, 1999. The employee can choose between three different ways of meeting the leave requirements as follows: four working weeks for each leave year in which the employee works at least 1365 hours; or 1/3 of a working week per calendar month in the leave year during which the employee works at least 117 hours; or 8 % of the hours the employee works in a leave year subject to a maximum of four working weeks. The employee is entitled to his/her normal pay during annual leave. A full-time employee is also entitled to paid time off on public holidays. A part-time employee is entitled to paid time off on public holidays, provided he/she has worked at least 40 hours in the five weeks ending on the day before the public holiday.

In Italy, there is a general right to paid annual leave. However, the legislation does not expressly lay down a minimum duration of the leave. Furthermore, the legislation does not specify that annual leave cannot be replaced by payment in lieu. The issue of annual leave is primarily regulated via collective and individual agreements.

Luxembourg law provides for an annual leave of 25 working days, which corresponds to 5 weeks per year.

In the Netherlands, the Civil Code provides that the worker acquires a holiday entitlement per year of at least four times the agreed weekly working time. In respect of civil servants, the

provisions are laid down in various regulations, which provide for at least equivalent holiday entitlements.

Under Austrian law, every employee has a general entitlement to 30 working days (5 weeks) of paid leave each year. In the first 6 months of the first year of employment, the holiday entitlement is based on the period of employment as a proportion of the working year, with full holiday entitlement accruing after 6 months have elapsed. As from the second year of employment, the full holiday entitlement accrues from the first working day. The entitlement increases to 35 working days (6 weeks) after 25 years of employment. However, one exception is made. Actors within the meaning of the Actors Act (*Schauspielergesetz*) have separate holiday entitlement arrangements.

Portuguese legislation provides for annual leave of 22 working days. When calculating these 22 days, public holidays should be excluded and Saturdays and Sundays are not counted as working days.

Under Finnish law, a worker is normally entitled to leave of two and a half working days for every "holiday credit month" when he has been working for the employer for at least 14 days or 35 hours. Annual leave days are deemed to be all days excluding Sundays and one week's leave is therefore based on six leave days. This means that a worker is normally entitled to five weeks' leave. A worker who has been employed for under a year earns two days of leave for each holiday credit month, which equals 4 weeks per year. An allowance in lieu is paid for those workers who do not acquire annual leave days due to working less than 14 days or 35 hours per month provided they have worked on at least 14 days during the "holiday credit year".

Under Swedish legislation, the worker is entitled to 25 days' leave every year. The leave normally adds up to 5 weeks since Saturday and Sunday are not counted as working days during a leave period. Holiday pay amounts to 12% of the annual wage.

In the UK, workers are entitled to four weeks' annual leave in any leave year beginning after 23rd November 1999. Under the UK regulations, the entitlement to annual leave usually include "bank holidays". The worker is entitled to be paid in respect of any period of annual leave at the rate of a week's pay in respect of each week of leave (hours fixed by his/her contract of employment). The UK legislation lays down a qualifying period of 13 weeks before the worker is entitled to annual leave.

In all Member States except Italy it is expressly provided that the minimum period of paid annual leave may not be replaced by an allowance in lieu, except where the employment relationship is terminated.

9. NIGHT WORK (ARTICLE 8)

According to Article 8(1), the normal hours of work for night workers should not exceed an average of eight hours in any 24-hour period. The notion of "normal hours of work" includes overtime as indicated in the preamble to the Directive:

"Whereas there is a need to limit the duration of periods of night work, including overtime...".

Article 16(3) provides for the option of laying down a reference period for night workers who fall under Article 8(1). In such a case the weekly rest period as defined by Article 5 is not counted in the calculation of the average.

Article 8(2) requires that night workers whose work involves special hazards or heavy physical or mental strain cannot work more than 8 hours in any 24-hour period during which they perform night work.

Articles 17(1), 17(2) and 17(3) of the Directive provide for the possibility to derogate from Article 8.

In Belgium, night work is, in principle, prohibited. Various derogations from this prohibition are possible. According to the general rule, working time may not exceed eight hours per day. This applies to both day-time work and night work although a number of derogations are permitted. Most derogations from the main rule do not apply to night workers if their work involves them in special hazards or heavy physical or mental strain. Special hazards and heavy physical and mental strain are defined in a Royal Decree. However, the maximum daily/nightly working time of shift workers can exceed the limits prescribed by the Directive.

In Denmark, the provisions concerning the length of night work are as a rule entrusted to collective agreements. There is no comprehensive analysis of the collective agreements implementing the Directive.

Under German legislation, the daily working time of a night worker must not exceed eight hours. This is an absolute limit for a 24 hour period and it applies to all working days. In some cases the daily length of night work can be extended to 10 hours, if an average of 8 hours is not exceeded in a reference period of four weeks or a month. There are no specific provisions for night work which involves special hazards or heavy physical or mental strain.

Greek legislation states that normal hours of work for night workers shall not exceed an average of 8 hours in any 24-hour period during a reference period of one week. However, this average does not include overtime. Collective agreements concluded at national or regional level may provide for derogations from the reference period. Night workers whose work involves special hazards or heavy physical or mental strain must not work more than 8 hours in any period of 24 hours during which they perform night work. Guidance is given as to what should be considered work involving special hazards or heavy physical or mental strain.

In Spain, the maximum length of night work is fixed at an average of eight hours over a reference period of 15 days. As a general rule night workers may not work overtime. However, in accordance with Article 17 of the Directive, the general limit on the length of night work can be exceeded in some sectors of activity either through an extension of the reference period to four months or through working overtime. If overtime is worked, it is expressly stated that this should be compensated by rest periods to maintain the average of eight hours of work a day. No explicit provision is made for night work involving special hazards or heavy physical or mental strain.

French law treats different categories of workers differently and it places particular emphasis on night work by female and young workers. For male workers over the age of 18, French law does not make any specific provision for limiting the duration of night work. As far as male workers over the age of 18 are concerned, French legislation therefore does not provide limits on the length of night work as laid down by Article 8 of the Directive. As regards female

workers, the underlying principle is that of a ban on night work for female workers. However, at the present time, the Commission considers that the legislation is deemed to be without legal effect, since the European Court of Justice has ruled that the provision in question is contrary to Article 5 of Directive 76/207 of 9 February 1976. There are no general provisions dealing with work involving special hazards or heavy physical or mental strain.

The Irish legislation stipulates that an employer must not allow a night worker to work more than 8 hours in a 24-hour period. If the employee carries out night work of a particularly hazardous nature there is no reference period. In the case of non-hazardous night work, a reference period may be used. The reference period may not exceed two months, unless it is laid down in an approved collective agreement.

In Italy, there is no general legislation on night work. Some specific provisions deal with the night work of young people and apprentices.

In Luxembourg, there is no general legislation on night work. Night work is subject to the normal rules on working time. There are just a few rules applicable to young workers, pregnant women and the bakery trade.

According to Dutch law, the limit is normally set at 8 hours per night duty. In case of working overtime occasionally, a maximum of 9 hours per night duty and an average of 40 hours per week calculated over a period of 13 weeks may be worked. The maximum number of night duties may not exceed 10 over a period of 4 weeks and 25 over a period of 13 weeks. A consultative procedure raises the norm to 9 hours per night duty and lays down derogating provisions for the average working time per week. Instead of 45 hours referred to in the consultative procedure a maximum average working time of 40 hours applies in a reference period of 13 weeks. In the case of occasional overtime, a maximum of 10 hours per night duty and an average of 40 hours per week calculated over a period of 13 weeks may be worked. The maximum number of consecutive night duties may not exceed 28 over a period of 13 weeks. No distinction between normal night work and night work involving special hazards or heavy physical or mental strain has been made.

In Austria there are no general provisions relating to night work. Thus, for the vast majority of employees no statute or other provision explicitly secures the implementation of Article 8 of the Directive. Austrian law applies the general limits on working time to both day and night work. Nonetheless, there are many exemptions to the general 8 hours' rule and, in particular, overtime is not included in the general limit. Given that Austria cannot withdraw from the ILO Night Work (Women) Convention No 89 before 2001, Annex XV Point V of the EU Accession Treaty provided for a transitional period with 31 December 2001 as the deadline for rescinding the general ban on women doing night work as laid down in the Federal Night Work (Women) Act (*Bundesgesetz über die Nachtarbeit der Frauen*).

In Portugal, the legislation stipulates that the normal working day for night workers must not exceed eight hours. To calculate this, two reference periods are indicated: the figure is based either on a weekly average, which will be the normal practice, or on a reference period laid down by law or by collective bargaining, in the latter case when a system of flexible working hours has been adopted. However, overtime is excluded in calculating the average. Furthermore, the legislation provides for a similar provision to Article 8(2) of the Directive but does not give any guidance as to what work involving special hazards or heavy physical or mental strain is.

Under Finnish law, the general rule is that normal working hours must not exceed eight hours per day and 40 hours per week. However, this does not include overtime. The legislation is based on the premise that, as a general rule, night work is prohibited and is allowed only in specific cases. The legislation further states that, in the case of work involving special hazards or heavy physical or mental strain which is governed by decree or determined by collective agreement, working hours may not exceed 8 hours per 24-hour period, if the work is performed at night. According to the information available to the Commission, no decree defining the work in question has been issued. However, the general occupational health and safety legislation contains a list of the special hazards which night work can cause.

Swedish law is based on a fundamental ban on night work but permits exceptions in particular circumstances. According to the Swedish legislation, all workers must have a nightly rest period and this rest period shall be between 12 p.m. and 5 a.m. However, derogations from this provision are possible if the work must be carried out at night, because of its nature, for reasons of public interest or in view of special circumstances. The law contains no express restriction on the duration of night work. In particular, the law contains no limits on the permitted working hours when derogations from the ban on night work are possible. There are, however, a number of general protective regulations but this general regulation lacks the precision of the Directive.

The UK regulations essentially copy out Article 8(1) of the Directive by stating that "a night worker's normal hours of work in any reference period which is applicable in his case shall not exceed an average of eight hours for each 24 hours". However, according to the UK regulations, where a worker works overtime, his/her normal working hours are the hours of work fixed by their contract of employment. Time worked as overtime is not deemed to be normal working time unless a worker's contract fixes a minimum number of hours, including overtime, which is more than their notional fixed hours. In respect of Article 8(2) of the Directive, the UK regulations state that "an employer shall ensure that no night worker employed by him whose work involves special hazards or heavy physical or mental strain works for more than eight hours in any 24-hour period during which the night worker performs night work". Furthermore, the UK regulations give guidance as to what should be considered as work involving special hazards or heavy physical or mental strain.

10. HEALTH ASSESSMENT AND TRANSFER OF NIGHT WORKERS TO DAY WORK (ARTICLE 9)

According to Article 9, Member States shall take the measures necessary to ensure that night workers are entitled to a free health assessment before their assignment and thereafter at regular intervals and that night workers suffering from health problems recognised as being connected with the fact that they perform night work are transferred whenever possible to day work to which they are suited.

The free health assessment must comply with medical confidentiality and it may be conducted within the national health system.

The legislation in Belgium, Germany, Spain, France, Portugal, Finland, Sweden, and the UK would seem to be in line with the requirements of Article 9 of the Directive. However, it is not clear whether in all Member States national implementing provisions leave scope for the health assessment to be carried out taking into account the requirements of a given work and the particular situation of the individual concerned.

In Denmark, there are no specific rules relating to Article 9 of the Directive. However, like other Danish citizens, Danish workers have free access to medical consultation. A worker will therefore, to a certain extent, be able to receive a free health check within the general framework of the health system. Danish legislation does not give night workers a general facility to transfer to day work if they have health problems as a result of night work. Such a right is, by contrast, expressly laid down in collective agreements.

Greek legislation provides that, before their assignment to night work and thereafter at regular intervals, night workers shall undergo the necessary health assessments to assess their suitability for this work. A provision is also made for a transfer from night work to day work. Medical confidentiality is required and the health assessment must not be used to the detriment of the workers. The health assessment is free of charge for the worker.

In Ireland, legislation requires an employer to make available, free of charge, to his/her employees, before they commence night work and regularly thereafter while on night work, an assessment of the effects which the night work may have on their health. The employer is also required to re-assign, whenever possible, to day work to which they are suited, employees who become ill or who display symptoms of ill health as a result of night work.

Italian and Luxembourg legislation do not contain any specific provisions relating to Article 9 of the Directive. However, in Luxembourg, general health and safety legislation contains provisions on health assessments.

According to Dutch law, employers must give all workers the opportunity to undergo a health examination periodically. For night workers this opportunity to undergo a health examination must also be given the first time the worker is due to work during a night duty. Provision is also made for transfer from night work to day work.

In Austria, there are no provisions entitling a worker to change from night work to day work.

11. GUARANTEES FOR NIGHT-TIME WORKING (ARTICLE 10)

Article 10 of the Directive lays down an option for the setting of certain guarantees for the work of certain categories of night workers.

Greek, Luxembourg and Austrian law makes reference to pregnant women and young people as special categories of workers in need of special protection.

In Spain, the Government may set limits and make guarantees, in addition to the general rules on night work, in certain activities or for certain categories of workers, depending on the hazards to their health and safety. Furthermore, as regards pregnant women and women who have recently given birth, Spanish legislation provides specific measures to avoid night-time and shift working. There are also specific measures for young workers.

French law provides for guarantees to young workers.

Irish law requires employers to take appropriate steps to protect the safety and health of their night workers and shift workers and to carry out an assessment of the safety and health risks attaching to the work of night workers, so as to determine whether such work involves special hazards or a heavy physical or mental strain.

Italian legislation provides for special protection for young workers and apprentices.

In the Netherlands, night duties in general are considered to be a risk for the health and safety of workers. Therefore, the maximum number of night shifts is fixed over a period of 13 weeks. Dutch legislation also provides special protection for young workers, pregnant women and women who have recently given birth.

Portuguese law provides guarantees governing the performance of night work by workers who incur risks to their safety or health linked to night-time working, as well as the activities that expose night workers to special hazards or heavy physical or mental strain.

The other Member States i.e. Belgium, Denmark, Germany, Spain, Luxembourg, Sweden, Finland and the UK have not adopted any specific measures under Article 10 of the Directive.

12. NOTIFICATION OF REGULAR USE OF NIGHT WORKERS (ARTICLE 11)

Article 11 requires Member States to take the measures necessary to ensure that an employer who regularly uses night workers brings this information to the attention of the competent authorities if they so request.

The legislation of the majority of Member States would seem to be in line with the requirements of Article 11: Belgium, Denmark, Germany, Greece, Spain, the Netherlands, Austria, Portugal, Finland, Sweden, and the UK.

In France, Ireland, Italy and Luxembourg there are no specific arrangements for informing the authorities.

13. SAFETY AND HEALTH PROTECTION – PATTERN OF WORK (ARTICLES 12 TO 13)

Article 12 requires Member States to take the measures necessary to ensure that night workers and shift workers have safety and health protection appropriate to the nature of their work and that appropriate protection and prevention services or facilities with regard to the safety and health of night workers and shift workers are equivalent to those applicable to other workers and are available at all times. Article 13 requires Member States to take the measures necessary to ensure that an employer who intends to organise work according to a certain pattern takes account of the general principle of adapting work to the worker, with a view, in particular, to alleviating monotonous work and work at a predetermined work-rate, depending on the type of activity, and on safety and health requirements, especially as regards breaks during working time.

The majority of Member States refer to their general legislation on health and safety of workers in respect of Articles 12 and 13: Denmark, Germany, the Netherlands, Austria, Finland, Sweden, and the UK (Article 12).

The UK regulations contain a provision requiring the employer to ensure that workers who perform monotonous work or whose work-rate is predetermined are given adequate rest breaks.

French legislation seems to contain general provisions corresponding to Article 12 (e.g. Article 231 of the Labour Code).

Irish legislation contains provisions corresponding to Article 13.

Greek, Spanish, and Portuguese, legislation seems to contain provisions, which correspond closely to Articles 12 to 13 of the Directive.

No reference to Articles 12 and 13 is made in the Belgian and Italian implementing provisions, although general legislation on health and safety may cover these provisions.

14. SOME GENERAL ISSUES ON THE IMPLEMENTATION OF THE WORKING TIME DIRECTIVE

14.1. Implementation of the Working Time Directive by means of collective agreements

In some Member States, collective agreements play an important role in implementing the Working Time Directive. In this respect, Community law, aware of the importance of collective bargaining as a source of law in the industrial relations systems of the Member States of the European Union, considers collective agreements as an adequate means of implementing directives, provided that both the material and personal scope of the relevant directives are fully respected.

Article 137(4) of the Treaty lays down that

"A Member State may entrust management and labour, at their joint request, with the implementation of directives pursuant to paragraphs 2 and 3. In this case, it shall ensure that, no later than the date on which a directive must be transposed in accordance with Article 249, management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that directive."

Thus, the Treaty clearly states that collective agreements can be used as a means for implementing directives. However, in this respect the European Court of Justice has laid down some preconditions in its case law. First of all, the Court has stated that

"The transposal of a directive into domestic law does not necessarily require that its provisions be incorporated formally in express, specific legislation. A general legal context may, depending on the context of the directive, be adequate for the purpose. The transposal has, however, to guarantee that the directive has been incorporated into domestic law in a sufficiently clear and precise manner and in such a way as to ensure the proper application of the directive. Where the directive is intended to establish legal rights for individuals, the persons concerned must be able to ascertain the full extent of their rights and, where appropriate, rely on them before the national courts.¹³

Secondly, in respect of the use of collective agreements as a means of implementation the Court has stated

"Although Member States may leave the implementation of the [principle of equal pay] in the first instance to representatives of management and labour, that possibility does not discharge them from the obligation of ensuring, by appropriate legislative and administrative provisions, that all workers in the Community are afforded the full protection provided for in Directive [No 75/117]. That State guarantee must cover all cases where effective protection is not

¹³ See e.g. Case C-59/89 Commission v. Germany [1991] ECR I-2607.

ensured by other means, for whatever reason, and in particular cases where the workers in question are not union members, where the sector in question is not covered by a collective agreement or where such an agreement does not fully guarantee [the principle of equal pay]."¹⁴

14.2. Two concurrent employment relationships

The Working Time Directive does not expressly provide for any guidance on the question as to whether the working time and rest period limits set out in the Directive are absolute limits in the sense that the hours worked for two or more employers should be added together in order to assess whether the limits are respected or whether the limits are set for each employment relationship separately.

In this respect the situation is very different in different Member States. Taking into account the need to ensure that the health and safety objective of the Working Time Directive is given full effect, the Commission considers that Member States' legislation should provide for appropriate measures in order to ensure that the limits on average weekly working time and daily and weekly rest are, as far as possible, respected in the case of workers working concurrently under two or more employment relationships falling under the scope of the Directive.

15. CONCLUSION

The general level of implementation of the Working Time Directive in Member States is relatively good. However, without prejudice to the more detailed comments presented under the preceding chapters, the Commission would like to draw attention to some general issues.

First, some Member States have entirely excluded categories of workers, who do not fall within the scope of the exclusions allowed by Article 1(3) of the Working Time Directive or Article 2 of Directive 89/391/EC. The fact that some of these categories fall within the scope of Article 17(1) of the Working Time Directive does not permit a total exclusion of these workers. Furthermore, in some cases the scope of the national measures in respect of the derogation under Article 17(1) of the Directive may have been extended beyond the aim of the derogation.

Second, in some Member States, due to the structure of the national legislation on the limits on working time, which differentiates between regular working time and overtime without setting an absolute limit over a given reference period, there is a risk that the average weekly working time of 48 hours is not always respected. This risk is particularly acute in situations where a major proportion of the overtime allowed is worked during a short reference period.

Third, in some Member States there is a qualifying period for the entitlement to annual leave. Article 7 of the Directive lays down a right to 4 weeks annual leave for all workers which, in appropriate cases, may be given on a *pro rata temporis* basis. Furthermore, in some Member States, due to the detailed rules for the entitlement to annual leave, workers may not be able to take any leave during the first year of their employment. These shortcomings are particularly relevant in respect of workers under relatively short fixed-term contracts.

¹⁴ Case 143/83 Commission v. Kingdom of Denmark [1985] ECR 427. See also e.g. Case 235/84 Commission v. Italian Republic [1986] ECR 2291.

Fourth, in a number of Member States there are important shortcomings in respect of the regulation of night work. In particular, in some Member States there is no legislation on night work and in some Member States the limits on night time work do not include overtime. In some, no guidance is given as to what constitutes work involving special hazards or heavy physical or mental strain.

Fifth, in some Member States the implementation of the Directive has been carried out in a way which makes it doubtful as to whether the transposal guarantees that the Directive has been incorporated into domestic law in a sufficiently clear and precise manner and in such a way as to ensure the proper application of the directive. As the Directive is intended to establish legal rights for individuals, the persons concerned must be able to ascertain the full extent of their rights and, where appropriate, rely on them before national courts.

ANNEX

National Provisions implementing Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time

Belgium

- 01 . Loi du 17/02/1997 relative au travail de nuit - Wet betreffende de nachtarbeid, Moniteur belge du 08/04/1997 Page 8145
- 02 . Loi du 04/12/1998 transposant certaines dispositions de la directive 93/104/CE du 23 novembre 1993 concernant certains aspects de l'aménagement du temps de travail - Wet tot omzetting van sommige bepalingen van de EG-richtlijn 93/104 van 23 november 1993 betreffende een aantal aspecten van de organisatie van de arbeidstijd, Moniteur belge du 17/12/1998 p. 40076

Denmark

- 01 . Lov om arbejdsmiljø, jf. lovbekendtgørelse nr. 184 af 22/3/1995, som ændret ved lov nr. 458 af 12/6/1996 (Arbejdsmin., j.nr. 95-2610-16. Lovtidende A 1996 hæfte nr. 90 udgivet den 13/06/1996 s. 2523) og lov nr. 1196 af 27/12/1996 (Arbejdsmin., j.nr. 95-2200-17. Lovtidende A 1996 hæfte nr. 199 udgivet den 28/12/1996 s. 7104) ALOV
- 02 . Bekendtgørelse nr. 1282 af 20/12/1996 om hvileperiode og fridøgn m.v. Arbejdsmin., j.nr. 95-2200-17. Lovtidende A 1996 hæfte nr. 205 udgivet den 10/01/1997 s. 7469. ABEK
- 03 . Bekendtgørelse nr. 867 af 13/10/1994 om arbejdets udførelse. Arbejdsmin., j.nr. 92-5332-1. Lovtidende A 1994 hæfte nr. 164 udgivet den 21/10/1994 s. 5064. ABEK
- 04 . Bekendtgørelse nr. 323 af 19/5/1993 om bedriftssundhedstjeneste (Arbejdsmin., 3.kt., j.nr. 2224-1) som ændret ved bekendtgørelse nr. 649 af 8/7/1994 (Arbejdsmin., j.nr. 94-2220-10) og bekendtgørelse nr. 37 af 23/1/1996 (Arbejdsmin., 3.kt., j.nr. 92-2220-1. Lovtidende A 1996 hæfte nr. 11 udgivet den 09/02/1996 s. 171) ABEK
- 05 . Bekendtgørelse nr. 713 af 30/08/1995 af Lov om ferie. Arbejdsmin. 1.kt. j.nr. 1993-5230-20, som ændret ved lov nr. 1199 af 22/12/1996 (Arbejdsmin. j.nr. 96-5230-45. Lovtidende A 1996 hæfte nr. 199 udgivet den 20/12/1996 s. 7110) ALOV
- 06 . Lov nr. 286 af 24/04/1996 om brug af helbredsoplysninger m.v. på arbejdsmarkedet. Arbejdsmin. 1.kt., j.nr. 95-5276-13. Lovtidende A 1996 hæfte nr. 60 udgivet den 25/04/1996 s. 1665. ALOV
- 07 . Organisationsaftale om implementering af arbejdstidsdirektivet mellem Dansk industri og CO-Industri
- 08 . Aftale om visse aspekter i forbindelse med tilrettelæggelse af arbejdstiden mellem Statsansattes Kartelm statstjenestemændenes Centralorganisation, Lærernes Centralorganisation og de Overenskomstansattes Centralorganisation på den ene side og Finansministeriet på den anden side
- 09 . Cirkulære om visse aspekter i forbindelse med tilrettelæggelse af arbejdstiden

- 10 . Aftale om gennemførelse af direktivet om visse aspekter i forbindelse med tilrettelæggelse af arbejdstiden mellem LO og SALA

Germany

- 01. Gesetz zur Vereinheitlichung und Flexibilisierung des Arbeitszeitrechts (Arbeitszeitrechtsgesetz- ArbZRG) vom 06/06/1994, Bundesgesetzblatt Teil I vom 10/07/1994 Seite 1170, geändert durch Artikel 2 des Gesetzes vom 30. Juli 1996, Bundesgesetzblatt Teil I Seite 1186
- 02. Gesetz zur Änderung des Gesetzes über den Ladenschluß und zur Neuregelung der Arbeitszeit in Bäckereien und Konditoreien vom 30/07/1996, Bundesgesetzblatt Teil I vom 05/08/1996 Seite 1186
- 03. Bekanntmachung der Neufassung der Verordnung über die Arbeitszeit der Bundesbeamten (Arbeitszeitverordnung - AZV) vom 24/09/1974, Bundesgesetzblatt Teil I vom 27/09/1974 Seite 2356
- 04. Bekanntmachung der Neufassung der Erholungsurlaubsverordnung vom 25/11/1994, Bundesgesetzblatt Teil I vom 02/12/1994 Seite 3512
- 05. Richtlinie für den betriebsärztlichen und sicherheitstechnischen Dienst in den Verwaltungen und Betrieben des Bundes vom 28/01/1978, Gemeinsames Ministerialblatt des Bundes (Hrsg.: Bundesinnenministerium) Nr. 7 vom 1978 Seite 114
- 06. Verordnung der Landesregierung über die Arbeitszeit der Beamten und Richter des Landes (Arbeitszeitverordnung- AZVO) vom 29/01/1996, Gesetzblatt für Baden-Württemberg Seite 76
- 07 . Verordnung der Landesregierung über den Urlaub der Beamten und Richter (Urlaubsverordnung- UrIVO) vom 06/10/1981, zuletzt geändert durch ErzUrIVO vom 15/12/1986, Gesetzblatt für Baden-Württemberg vom 1986 Seite 481
- 08. Verordnung der Landesregierung über die Lehrverpflichtung an Kunsthochschulen (Lehrverpflichtungsverordnung für Kunsthochschulen) vom 15/02/1982, Gesetzblatt für Baden-Württemberg Nr. 4 vom 26/02/1982 Seite 49
- 09. Verordnung der Landesregierung über die Lehrverpflichtungen an Universitäten, Pädagogischen Hochschulen und Fachhochschulen (Lehrverpflichtungsverordnung -LVVO) vom 11/12/1995, Gesetzblatt für Baden-Württemberg Nr. 2 vom 12/01/1996 Seite 43
- 10. Verordnung über die Arbeitszeit für den bayerischen öffentlichen Dienst (Arbeitszeitverordnung- AzV) vom 25/07/1995, Bayerisches Gesetz- und Verordnungsblatt Nr. 17 vom 1995 Seite 409
- 11. Bekanntmachung des Bayerischen Staatsministeriums der Finanzen vom 25/04/1996, Amtliches Mitteilungsblatt des Bayerischen Staatsministeriums der Finanzen Nr. 10 vom 07/06/1996 Seite 258
- 12. Bekanntmachung der Neufassung der Urlaubsverordnung vom 10/08/1990, Bayerisches Gesetz- und Verordnungsblatt Nr. 17 vom 1990 Seite 366

- 13. Neunte Verordnung zur Änderung der Urlaubsverordnung vom 11/02/1992, Bayerisches Gesetz- und Verordnungsblatt Nr. 3 vom 1992 Seite 18
- 14. Zehnte Verordnung zur Änderung der Urlaubsverordnung vom 20/06/1995, Bayerisches Gesetz- und Verordnungsblatt Nr. 15 vom 1995 Seite 302
- 15. Vorläufige Richtlinien über die Gewährleistung eines arbeitsmedizinischen und sicherheitstechnischen Arbeitsschutzes in der staatlichen Verwaltung des Freistaates Bayern vom 18/12/1981, Bayerische Staatszeitung und Bayerischer Staatsanzeiger Nr. 53
- 16. Verordnung über die Arbeitszeit der Beamten (Arbeitszeitverordnung - AZVO) i.d.F. vom 21/11/1995, Gesetz- und Verordnungsblatt für Berlin Nr. 70 vom 30/11/1995 Seite 790
- 17. Verordnung über den Erholungsurlaub der Beamten und Richter (Erholungsurlaubsverordnung - EUrlVO) i.d.F vom 26/04/1983 (GVBl. S. 775) geändert durch Verordnung vom 27/11/1986, Gesetz- und Verordnungsblatt für Berlin Seite 1843
- 18. Verordnung zur Änderung mutterschutz- und urlaubsrechtlicher Vorschriften vom 12/12/1991, Gesetz- und Verordnungsblatt für Berlin Nr. 55 vom 20/12/1991 Seite 286
- 19. Verordnung zur Änderung arbeitszeitrechtlicher und urlaubsrechtlicher Vorschriften vom 28/08/1995, Gesetz- und Verordnungsblatt für Berlin Nr. 50 vom 07/09/1995
- 20. Verordnung über den Erholungsurlaub der Beamten und Richter im Land Brandenburg (Erholungsurlaubsverordnung - EUrlV Bbg) vom 10/10/1994, Gesetz und Verordnungsblatt für das Land Brandenburg Nr. 70 vom 28/10/1994 Seite 908
- 21. Erste Verordnung zur Änderung der Verordnung über den Erholungsurlaub der Beamten und Richter im Land Brandenburg vom 07/10/1996, Gesetz und Verordnungsblatt für das Land Brandenburg
- 22. Verordnung über die Arbeitszeit der Beamten vom 29/09/1959, Gesetzblatt der Freien Hansestadt Bremen Seite 138, zuletzt geändert durch Verordnung vom 08/05/1995 (Brem. GBl. Seite 315)
- 23. Grundsätze für die gleitende Arbeitszeit vom 04/05/1995, Gesetzblatt der Freien Hansestadt Bremen Seite 449
- 24. Urlaubsverordnung in der Fassung vom 27/06/1979 (GBl. S. 337), zuletzt geändert durch Verordnung vom 12/12/1995 (GBl. S.535)
- 25 . Verwaltungsanordnung über die Arbeitszeit und der Dienstzeit vom 25/09/1974 (MittVw S. 217), zuletzt geändert am 28/03/1989, Hamburgisches Gesetz- und Verordnungsblatt
- 26 . Verordnung über den Erholungsurlaub der hamburgischen Beamten (HmbUrIVO) vom 22/02/1972 (GVBl. 1972 S.45), zuletzt geändert am 07/04/1992 (GVBl.1992 S.73)
- 27 . Verordnung über die Arbeitszeit der Beamten in der Fassung vom 14/03/1989 (GVBl. S.91), zuletzt geändert durch 27/07/1994 (GVBl.S.312)

- 28. Verordnung zur Änderung mutterschutz-, urlaubs- und arbeitszeitrechtlicher Vorschriften vom 17/09/1996, Gesetz- und Verordnungsblatt für das Land Hessen Nr. 22 vom 02/10/1996 Seite 385
- 29. Zweite Verordnung zur Änderung der Verordnung über die Arbeitszeit der bei Justizvollzugsanstalten tätigen Beamten vom 26/04/1989, Gesetz- und Verordnungsblatt für das Land Hessen Nr. 8 vom 17/05/1989 Seite 125
- 30. Verordnung über die Arbeitszeit der hessischen Polizeivollzugsbeamtinnen und Beamten vom 24/05/1993, Gesetz- und Verordnungsblatt für das Land Hessen Nr. 14 vom 16/06/1993 Seite 191
- 31. Urlaubsverordnung für die Beamten im Lande Hessen in der Fassung vom 16/11/1982 (GVBl. 1982 S.269), zuletzt geändert durch Verordnung vom 19/06/1985 Gesetz- und Verordnungsblatt für das Land Hessen 1985 Seite 82
- 32. Verordnung über die Arbeitszeit der Beamten im Land Mecklenburg-Vorpommern (Arbeitszeitverordnung - AZVO) vom 07/04/1995, Gesetzblatt für das Land Mecklenburg-Vorpommern Nr. 8 vom 1995 Seite 224
- 33. Niedersächsisches Beamtengesetz (NBG) i.d.F vom 11/12/1985 (Nds.GVBl. Seite 493), zuletzt geändert durch Gesetz vom 01/04/1996 Niedersächsisches Gesetz- und Verordnungsblatt Seite 82
- 34. Bekanntmachung der Neufassung der Verordnung über die Arbeitszeit der Beamten vom 16/02/1990, Niedersächsisches Gesetz- und Verordnungsblatt Nr. 10 vom 23/02/1990 Seite 69
- 35. Sechste Verordnung zur Änderung der Verordnung über die Arbeitszeit der Beamten vom 10/04/1991, Niedersächsisches Gesetz- und Verordnungsblatt Nr. 16 vom 12/04/1991 Seite 169
- 36. Zehntes Gesetz zur Änderung des Niedersächsischen Beamtengesetzes vom 19/06/1996, Niedersächsisches Gesetz- und Verordnungsblatt Nr. 11 vom 26/06/1996
- 37. Zweites Gesetz zur Änderung dienstrechtlicher Vorschriften vom 20/11/1995, Niedersächsisches Gesetz- und Verordnungsblatt Nr. 21 vom 24/11/1995
- 38. Verordnung über die Arbeitszeit der Beamten des Feuerwehrdienstes der Gemeinden und Landkreise (ArbZVO- Feu) vom 27/11/1986, Niedersächsisches Gesetz- und Verordnungsblatt Nr. 41 vom 09/12/1986 Seite 353, zuletzt geändert durch Verordnung vom 14/03/1996 (Nds. GVBl.5/1996)
- 39. Bekanntmachung der Neufassung der Verordnung über die Arbeitszeit der Lehrkräfte an öffentlichen Schulen vom 13/08/1992, Niedersächsisches Gesetz- und Verordnungsblatt Nr. 33 vom 25/08/1992, zuletzt geändert durch Verordnung vom 18/07/1996 (Nds. GVBl.14/1996)
- 40. Bekanntmachung der Neufassung des Niedersächsischen Hochschulgesetzes vom 21/01/1994, Niedersächsisches Gesetz- und Verordnungsblatt Nr. 2 vom 26/01/1994 Seite 13
- 41. Verordnung über die Lehrverpflichtung an Hochschulen (LVVO) vom 18/01/1996, Niedersächsisches Gesetz- und Verordnungsblatt Nr. 2 vom 1996 Seite 20

- 42. Verordnung über die Niedersächsische Fachhochschule für Verwaltung und Rechtspflege vom 10/02/1996, Niedersächsisches Gesetz- und Verordnungsblatt Nr. 3 vom 27/02/1996 Seite 26
- 43. Bekanntmachung der Neufassung des Beschlusses des Landesministeriums über die Arbeitszeit in der niedersächsischen Landesverwaltung vom 20/12/1989, Niedersächsisches Ministerialblatt Nr. 6 vom 1990 Seite 127, zuletzt geändert durch Nds. MBl. 11/1991 S. 396
- 44. Verordnung über den Erholungsurlaub der Beamten und Richter (Erholungsurlaubsverordnung) vom 02/10/1990, Niedersächsisches Gesetz- und Verordnungsblatt Nr. 37 vom 05/10/1990 Seite 444
- 45. Bekanntmachung der Neufassung der Verordnung über die Arbeitszeit der Beamten im Lande Nordrhein-Westfalen (AZVO) vom 28/12/1986, Gesetz- und Verordnungsblatt für das Land Nordrhein-Westfalen vom 1987 Seite 15, zuletzt geändert durch Verordnung vom 28/03/1995 (GV. NW. S. 292)
- 46. Dreizehnte Verordnung zur Änderung der Verordnung über die Arbeitszeit der Beamten im Lande Nordrhein-Westfalen vom 30/07/1996, Gesetz- und Verordnungsblatt für das Land Nordrhein-Westfalen Nr. 32 vom 08/08/1996 Seite 244
- 47. Verordnung über die Arbeitszeit der Polizeivollzugsbeamten des Landes Nordrhein-Westfalen vom 15/08/1975, Gesetz- und Verordnungsblatt für das Land Nordrhein-Westfalen Seite 532, zuletzt geändert durch Verordnung vom 07/02/1989 (GV. NW. S.90)
- 48. Vierte Verordnung zur Änderung der Verordnung über die Arbeitszeit der Polizeivollzugsbeamten des Landes Nordrhein-Westfalen (AZVOPol) vom 17/08/1996, Gesetz- und Verordnungsblatt für das Land Nordrhein-Westfalen Nr. 40 vom 05/09/1996 Seite 348
- 49. Bekanntmachung der Neufassung der Verordnung über den Erholungsurlaub der Beamtinnen und Beamten und Richterinnen und Richter im Lande Nordrhein-Westfalen (Erholungsurlaubsverordnung -EUV) vom 14/09/1993, Gesetz- und Verordnungsblatt für das Land Nordrhein-Westfalen Seite 690, zuletzt geändert durch Verordnung vom 25/06/1996 (GV. NW. S.220)
- 50. Arbeitszeitverordnung (ArbZVO) vom 23/03/1993, Gesetz- und Verordnungsblatt der Landesregierung Rheinland-Pfalz Seite 152
- 51. Landesverordnung über den Urlaub der Beamten des Landes Rheinland-Pfalz (Urlaubsverordnung - UrlVO) in der Fassung vom 17/03/1971 (GVBl. S.125), zuletzt geändert durch Verordnung vom 18/02/1986 (GVBl. S.43)
- 52. Verordnung über die Arbeitszeit der Beamten vom 19/11/1962, Amtsblatt des Saarlandes Seite 787, zuletzt geändert durch Verordnung vom 15/05/1996 (Amtsbl.22 S.466)
- 53. Verordnung über die Arbeitszeit der Beamten der Vollzugspolizei (AZVO- Pol) vom 04/08/1978, Amtsblatt des Saarlandes Nr. 35 vom 25/08/1978 Seite 737
- 54. Bekanntmachung der Neufassung der Urlaubsverordnung für die saarländischen Beamten und Richter vom 08/12/1970, Amtsblatt des Saarlandes Nr. 41 vom 28/12/1970 Seite 978, zuletzt geändert durch Verordnung vom 15/05/1996 (Amtsbl. 26 S. 586)

- 55. Neufassung der Allgemeinen Verwaltungsvorschriften zur Durchführung der gesetzlichen Unfallversicherung durch die Landesausführungsbehörde für Unfallversicherung des Saarlandes vom 20/05/1992, Gemeinsames Ministerialblatt des Saarlandes (Hrsg.: Innenministerium) vom 10/08/1992 Seite 190
- 56. Verordnung der Sächsischen Staatsregierung über die Arbeitszeit der Beamten des Freistaates Sachsen (Sächsische Arbeitszeitverordnung - SächsAZVO) vom 12/01/1993, Sächsisches Gesetz- und Verordnungsblatt Nr. 5 vom 10/02/1993 Seite 75, zuletzt geändert durch Verordnung vom 22/03/1996 (SächsGVBl. S.122)
- 57. Verordnung der Sächsischen Staatsregierung über den Urlaub der Beamten und Richter im Freistaat Sachsen (Sächsische Urlaubsverordnung - SächsUrIVO) vom 01/02/1993, Sächsisches Gesetz- und Verordnungsblatt Nr. 9 vom 25/02/1993 Seite 123, zuletzt geändert durch Verordnung vom 15/12/1995 (SächsGVBl. S.57)
- 58. Verordnung über die Arbeitszeit der Lehrkräfte an öffentlichen Schulen (ArbZVO- Lehr) vom 18/02/1992, Gesetzblatt für das Land Sachsen-Anhalt Nr. 8 vom 28/02/1992 Seite 128, zuletzt geändert durch Verordnung vom 27/05/1994 (GVBl. LSA Nr.27 S.625)
- 59. Verordnung über die Arbeitszeit von Beamten des Justizvollzugsdienstes (ArbZVOJVollz) vom 29/05/1995, Gesetzblatt für das Land Sachsen-Anhalt Nr. 18 vom 06/06/1995 Seite 146
- 60. Verordnung über die Arbeitszeit des Polizeivollzugsdienstes (ArbZVO Pol) vom 26/10/1994, Gesetzblatt für das Land Sachsen-Anhalt Nr. 48 vom 04/11/1994 Seite 978
- 61. Verordnung über die Arbeitszeit der Beamten (ArbZVO) vom 07/05/1992, Gesetzblatt für das Land Sachsen-Anhalt Nr. 18 vom 21/05/1992 Seite 324
- 62. Verordnung über den Urlaub der Beamten im Land Sachsen-Anhalt (Urlaubsverordnung - UrIVO) vom 09/11/1993, Gesetzblatt für das Land Sachsen-Anhalt Nr. 49 vom 12/11/1993 Seite 688
- 63. Thüringer Verordnung über den Urlaub der Beamten und Richter (Thüringer Urlaubsverordnung- ThürUrIV) vom 30/09/1994, Gesetz- und Verordnungsblatt für den Freistaat Thüringen Nr. 32 vom 11/10/1994 Seite 1095
- 64. Thüringer Verordnung über die Arbeitszeit der Beamten (ThürAzVO) vom 12/04/1995, Gesetz- und Verordnungsblatt für den Freistaat Thüringen Nr. 9 vom 11/05/1995 Seite 192
- 65. Landesverordnung über die Arbeitszeit der Beamten (Arbeitszeitverordnung - SH AZVO) in der Fassung vom 16/01/1987, Gesetz- und Verordnungsblatt für das Land Schleswig-Holstein Nr. 3 vom 04/02//1987 Seite 42, zuletzt geändert durch Verordnung vom 01/10/1996 (GVOBl. Schl.-H. S.608)
- 66. Bekanntmachung der Neufassung der Landesverordnung über den Erholungsurlaub der Beamten und Richter (Erholungsurlaubsverordnung - EUVO) vom 28/01/1987, Gesetz- und Verordnungsblatt für das Land Schleswig-Holstein Nr. 4 vom 10/02/1987 Seite 53
- 67. Landesverordnung zur Änderung der Erholungsurlaubsverordnung, Mutterschutzverordnung und Erziehungsurlaubsverordnung vom 02/08/1996, Gesetz- und Verordnungsblatt für das Land Schleswig-Holstein Nr. 16 Seite 572

Greece

- 01. Ελάχιστες προδιαγραφές για την οργάνωση του χρόνου εργασίας σε συμμόρφωση με την οδηγία 93/104/EK

Spain

- 01. Ley número 8/80 de 10/03/1980, sobre el Estatuto de los Trabajadores, Boletín Oficial del Estado número 64 de 14/03/1980

- 02. Real Decreto número 2001/83 de 28/07/1983, del Ministerio de Trabajo y Seguridad Social sobre regulación de la jornada de trabajo, horas extraordinarias y descansos, Boletín Oficial del Estado número 180 de 29/07/1983 (Marginal 1620)

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