



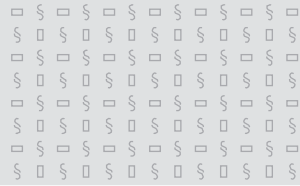
# MASARYK UNIVERSITY FACULTY OF LAW

## Health and Safety at Work Working Time Rest Periods



# Development of EU regulation

- Initially, very limited competences regarding health and safety.
- 1986 – The Single European Act
  - Recognition of competence in relation to health and safety for workers
  - Various measures were taken on basis of this new competence
- Currently the health and safety at work is one of the most important areas of EU social policy.



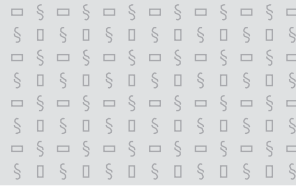
# The Importance of Health and Safety

- Protection of life and health in general and in connection with work - Constitutional rights.
- Work should be performed in conditions that are not dangerous and harmful for health of workers and for other persons.
- Protection of health and safety at work is guaranteed in:
  - International Covenant on Economic, Social and Cultural Rights (UN 1966)
  - European Social Charter (Council of Europe 1961, Revised 1996)
  - ILO Conventions



# Primary Law

- Art. 154 TFEU:
  1. *With a view to achieving the objectives of Article 151, the Union shall support and complement the activities of the Member States in the following fields:*
    - (a) improvement in particular of the working environment to protect workers' health and safety;*
    - (b) working conditions;*
- Interpretation difficulties
  - C 84/94 – UK vs. Council of the European Union



# Charter of the Fundamental Social Rights of Workers

- Art. 19:

*Every worker must enjoy satisfactory health and safety conditions in his working environment. Appropriate measures must be taken in order to achieve further harmonization of conditions in this area while maintaining the improvements made.*

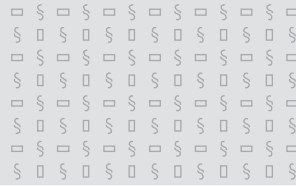
*The measures shall take account, in particular, of the need for the training, information, consultation and balanced participation of workers as regards the risks incurred and the steps taken to eliminate or reduce them.*

*The provisions regarding implementation of the internal market shall help to ensure such protection.*



# The Framework Directive 89/391

- Purpose of the provisions:
  - Prevention of damages (stress, industrial injuries, occupational diseases, material damages at peoples property)
  - Promotion of human integrity – physical and mental status of an employee
  - Promotion of health and safety in positive way that means creation of comfortable and agreeable workplace



# The Framework Directive 89/391

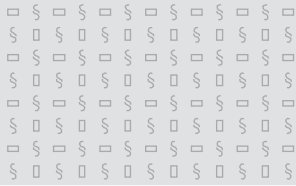
- Introduction of measures to encourage improvements in the safety and health of workers at work.
- General principles concerning:
  - Prevention of occupational risks
  - Protection of safety and health
  - Elimination of risk and accidents factors
  - Information, consultation, participation
  - Training of workers



# The Framework Directive 89/391

- Health and Safety must be primarily ensured by the employer.
- The employer must implement measures on the basis of general principles of prevention:
  - Avoid risks,
  - Evaluate the risks that cannot be avoided,
  - Combat the risks at source.





# Framework agreements

- Work-Related Stress
- Harrasment and Violence at Work
- Prevention from Sharp Injuries in the Hospital and Healthcare System



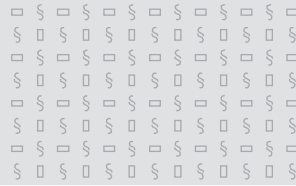
# Working Time Directive

- Original Directive 93/104/EC was replaced by Directive 2003/88/EC concerning certain aspects of the organisation of working time
- Based of Art. 154 TFEU
- Very controversial directive



# Working Time Directive

- Main focus:
  - Maximum weekly working time
  - Rest periods
  - Annual Leave of absence
  - Rules for night work
  - Rules for shift work



# Working Time Definition

- Working time means any period during which the worker is working, at the employer's disposal and carrying out his activities or duties, in accordance with national laws and/or practice.
  - C-303/98 - SIMAP
  - C-151/02 - Jaeger
  - C-14/04 - Dellas
  - C-266/14 - Tyco: Presentation



# Maximum Weekly Working Time

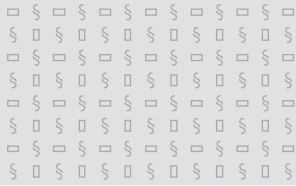
Member States shall take the measures necessary to ensure that, in keeping with the need to protect the safety and health of workers:

- (a) the period of weekly working time is limited by means of laws, regulations or administrative provisions or by collective agreements or agreements between the two sides of industry;
- (b) the average working time for each seven-day period, including overtime, does not exceed 48 hours.



## Daily and weekly rest periods

- Member States shall take the measures necessary to ensure that every worker is entitled to a minimum daily rest period of 11 consecutive hours per 24-hour period.
- Member States shall take the measures necessary to ensure that, per each seven-day period, every worker is entitled to a minimum uninterrupted rest period of 24 hours plus the 11 hours' daily rest.



# Breaks

- Member States shall take the measures necessary to ensure that, where the working day is longer than six hours, every worker is entitled to a rest break, the details of which, including duration and the terms on which it is granted, shall be laid down in collective agreements or agreements between the two sides of industry or, failing that, by national legislation.



# Annual Leave

- Member States shall take the measures necessary to ensure that every worker is entitled to paid annual leave of at least four weeks in accordance with the conditions for entitlement to, and granting of, such leave laid down by national legislation and/or practice.
- The minimum period of paid annual leave may not be replaced by an allowance in lieu, except where the employment relationship is terminated.
- C-131/04 - Robinson-Steele
- C-350/06 - Schultz-Hoff
- C-118/13 - Gülay Bollacke: Presentation





# Night Work

- Night time means 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 5.00.
- Night worker means any worker, who, during night time, works at least three hours of his daily working time as a normal course.



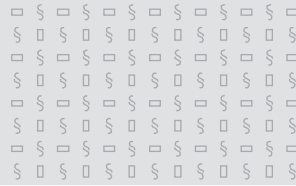
# Night Work

- Member States shall take the measures necessary to ensure that normal hours of work for night workers do not exceed an average of eight hours in any 24-hour period.
- Member States shall take the measures necessary to ensure that
  - (a) night workers are entitled to a free health assessment before their assignment and thereafter at regular intervals;
  - (b) 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.



# Shift Work

- Shift work means any method of organising work in shifts whereby workers succeed each other at the same work stations according to a certain pattern, including a rotating pattern, and which may be continuous or discontinuous, entailing the need for workers to work at different times over a given period of days or weeks.
- Shift worker means any worker whose work schedule is part of shift work.
- Member States shall take the measures necessary to ensure that night workers and shift workers have safety and health protection appropriate to the nature of their work.



# Derogations and Exceptions

- Derogations:
  - Specific workers (managing executives, family workers etc.)
  - Activities involving the need for continuity of service or production (gas, water and electricity production, dock or airport workers, health care, research etc.)
  - Foreseeable surge of activity (tourism, postal services, agriculture)
- Some rules may be derogated from by a collective agreement.
- Derogation by a decision of Member State not to apply the limitation of the maximum weekly working time.