

Health and Safety at Work

JUDr. Jana Komendová, Ph.D.

Programme

- Health and safety at work generally,
- Health and safety at work – particular working conditions,
- Working time and rest periods – definitions,
- Minimum requirements for working time,
- Night work,
- Annual paid leave

Health and Safety at Work Generally

- Health and safety at work is now one of the most important and the most advanced field of the EU social policy
- EU action in this area is not limited to legislation
- The European Institutions carry out several activities providing information and guidance and promoting a safe and healthy working environment in cooperation with the European Agency for Health and Safety at Work and the European Foundation for the Improvement of Living and Working Conditions.

Purpose of Regulation at EU Level

- 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

Characteristic Features

- Shared responsibility of both, Member States and the EU
- Health has quite a broad sense. The case-law of ECJ (*C- 84/94 Case United Kingdom v. Council*) makes reference to the Constitution of World Health Organisation. Health is defined as state of complete physical, mental and social well-being that does not consist only in the absence of illness or infirmity.
- Adjustment of work to individual

Legal Regulation

- **Primary law** – Treaty on the Functioning of the EU Article 153 legal base for adoption of secondary legislation
- **Secondary Law** - Council Directive 89/391 on the introduction of measures to encourage improvements in the safety and health of workers at work (framework directive), individual directives concerning particular working conditions

Health and Safety at Work – Particular Working Conditions

Individual directives (about 20) concerning e.g.

- Personal protective equipment,
- Signs at workplace,
- Work with screens,
- Workers exposed to harmful chemical substances,
- Workers exposed to carcinogens,
- Workers exposed to harmful biological agents,
- Workers exposed to asbestos,
- Workers exposed to radiation,
- Workers exposed to harmful physical agents - noise, vibration

Health and safety at Work – Protection of Certain Categories of Workers

- Special categories of precarious forms of employment – temporary workers, workers employed on fixed-term contracts
- Protection of pregnant employees, employees who are breast-feeding and employees after childbirth,
- Protection of young persons at work

Working time

Directive 2003/88/EC concerning certain aspects of organisation of working time

Purpose – to lay down minimum health and safety requirements for the organisation of working time

Personal scope of application – employees in all sectors public and private with references to framework directive on health and safety at work

Material Scope of Application

- Weekly working hours,
- Rest periods,
- Daily rest,
- Weekly rest,
- Breaks at work,
- Leave,
- Night work,
- Shifts pattern of work,

Working Time and Rest periods - definitions

- **Working time** - any period during which the worker is working, at the employer's disposal and carrying out his activity or duties, in accordance with national laws and/or practice.
- **Rest period** – any period that is not working time.
- Directive 2003/88 does not regulate any other time such as e. g. on call service or stand-by period

Minimum requirements

- Maximum weekly working hours may not exceed 48 hours including overtime
- Minimum daily rest – a period of 11 consecutive hours per 24-hour period.
- Minimum weekly rest - 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 at Work

- Obligation of Member States to ensure 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.

Night Work

- **Night time** - 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
 - (a) on the one hand, any worker, who, during night time, works at least three hours of his daily working time as a normal course; and
 - (b) on the other hand, any worker who is likely during night time to work a certain proportion of his annual working time, as defined at the choice of the Member State concerned

Annual Paid Leave

Obligation of Member States to 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.

Prohibition to replace the minimum period of paid annual leave by an allowance in lieu, except where the employment relationship is terminated.