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EU: Need to rethink working time laws



In last week's issue we [drew attention](#) to the package of documents published by the European Commission on the current state of the law when it comes to working time. The package comes in three parts. A [Report](#) to the Council and the Parliament on the state of working time laws across the EU. A detailed [Staff Working Document](#) backing up the report. And a [Communication](#) on the case law on the Court of Justice of the European Union (CJEU).

At the outset, it needs to be said that taken together the three documents are an excellent piece of work, making clear where the law on working time in the European Union stands today. The staff working document and the guide to the CJEU case law are both superb resources for anyone who is concerned with the management of working time in their organisation.

Not only that, but they also recognise that the Directive was written over 30 years ago in a very different world of work. To quote (at length):

The 1993 Directive came into force almost 30 years ago, in a society where, overall, employment relationships were more homogeneous and work organisation more standardised in the common '9 to 5' working day. However, over the past decades, working time regulation has been increasingly confronted by new forms of employment and new ways of organising work, through the rise of e.g., remote work, mobile work, on-demand work, platform work or multiple employment.

These changes have been brought about and/or accelerated by the impact of digitalisation on the economies and societies of the EU. Indeed, digital transformation has further enabled more flexible working arrangements, addressing both workers' aspirations for work-life balance and well-being at work and businesses' search for increased productivity and agility in a globalised economy.

The Working Time Directive is therefore being implemented in a context marked by a new range of opportunities and risks. Flexible employment may lead to more use of the Directive's derogations.

Digitalisation is blurring the distinction between work and rest, and enables an increased fragmentation of work, both with regard to location and to time. At the same time, technology creates new possibilities for monitoring working time.

It seems to us that these three short paragraphs go to the heart of the matter. The Working Time Directive is an industrial age piece of legislation in a digital world, not to mention a world that is going to be shaken further by Artificial Intelligence.

Of course, over half the workforce still leave home every morning and “go to work”. There are millions of workers who cannot work from home. Even if you can order a restaurant meal to be delivered to your door, someone in some kitchen still has to cook it. Hospitals still need skilled and committed personnel. Hotels have to be cleaned. Factories need workers. Trucks need to be driven. For such workers the Working Time Directive remains relevant and important with its maximum working week, daily and weekly rest periods, and protections for those who work at night.

But there are increasing numbers of workers for whom “industrial” working time legislation is an anachronism. Whether working remotely fulltime or working in a hybrid pattern, the 9/5, 5 days a week paradigm is no longer appropriate. Such workers want to be able to “spread” their work over the day, or even the week, to suit their own circumstances. Working from home involves combining “work life” and “home life” in a way that can make the most of both and ensures that what needs to be done in both spheres gets done but at times that suits each individual worker, subject to organisational needs to be available at certain times.

Certainly, there needs to be rules around remote working. Constant connectivity should not mean constant availability. Workers must be entitled to plug out and chill out. The law, or collective agreement, should provide for employees who work remotely to be able to agree with their managers working time arrangements that best suits them. Rigid, standardised patterns should be avoided, always subject to appropriate basic protections. The law and collective agreements should enable, not enforce.

The European Commission might give some thought to the appointment of an expert group to review the Working Time Directive with a mandate to bring forward suggestion on how to rewrite the law in the light of the world of work as it is today, not as it was thirty years ago.

For some further interesting data on working from home, see [here](#)

AI: Impact on the workplace



An OECD [survey](#) of employers and workers in the manufacturing and finance sectors of seven countries throws new light on the impact that Artificial Intelligence has on the workplace. The findings suggest that both workers and their employers are generally very positive about the impact of AI on performance and working conditions.

However, there are also concerns, including about job losses. The surveys also indicate that, while many workers trust their employers when it comes to the implementation of AI in the workplace, more needs to be done to improve trust. In particular, the surveys show that both training and appropriate consultation are associated with better outcomes.

A [paper](#) from MIT looks at how AI could impact the workplace in the years immediately ahead. This is well worth a read. A quarter of jobs could soon be automated as a result of breakthroughs in artificial intelligence, according to research by **Goldman Sachs** which nevertheless says ‘generative’ AI systems such as the ChatGPT chat assistant – which can create writing and other content indistinguishable from that

created by a human – could precipitate an economic boom and boost global gross domestic product by 7% in a decade.

But the investment bank’s report warned the technology would also cause “significant disruption” to employment, with around 300m full-time jobs at risk of being automated. Two-thirds of jobs in the US and Europe could be affected, report authors Joseph Briggs and Devesh Kodnani say. Lawyers and administrative staff are among those at high risk of redundancy, but more complex jobs – such as making court rulings and checking the health of critically-ill patients – are unlikely to be replaced by AI, and physical and outdoor roles such as construction are also unlikely to be affected.

We will be returning to the impact of AI on human resource management and employee relations in our training programs later this year.

Belgium: Delhaize saga continues



Three weeks after the management of the Belgium supermarket chain Delhaize announced that it intended to franchise out the 128 stores it currently runs directly, around 100 of them are still closed as workers and their unions protest the decision. 9,200 employees are potentially impacted.

Responding to the Delhaize management announcement, the Socialist Party has now proposed legislation that would see franchisors continue to have responsibility for working conditions in franchised operations creating what would be called in the US a “joint employer” framework. The legislation envisages the franchisor and the franchisees negotiating jointly with unions on pay and working conditions.

It is unlikely that the legislation will be adopted as liberal and centre-right parties have announced their opposition, as have multiple employer groups. They say it would undercut the very *raison d’être* of franchising which is to enable franchise management to respond flexibly to local competitive circumstances. For unions, the fragmentation of the Delhaize employees into 128 “mini companies” creates considerable organisation problems with many of the individual stores falling below the threshold which mandates the establishment of a works council. ([Here in French](#) €)

The unions argue that what Delhaize wants to do would lead to the “Uberisation” of the entire retail sector in Belgium. But, as we said in last week’s issue, in a social market economy, it is management that decides on what model is appropriate for its business, not unions or works councils.

Platform Economy: Free to strike at any time



This interesting [article](#) on the platform economy suggests that platform workers are not bound by the rules on strike action that apply to other workers because they are not really “striking” just boycotting one platform with which they have issues while continuing to work and earn from other platforms. This seems to undercut arguments that they are really employees, and not self-employed contractors but, as we report below, the courts think otherwise.

On March 24, 2023, the Dutch Supreme Court ruled that Deliveroo riders in the Netherlands are employees despite having entered into services contracts as independent contractors with the company [here](#). As we

have noted before, while Brussels continues to debate the issue of the correct employment status of platform workers, courts across Europe are making decisions on the issue, with the majority of them coming down in favour of seeing such workers as employees.

Germany: Mega-strike hits transport



German commuters and visitors to the country faced serious disruption last Monday as transport staff across the country staged a strike to push for wage rises in the face of record inflation, hitting 8.7%. Workers at airports, ports, railways, buses and metro lines throughout much of Europe's biggest economy heeded a call from the Verdi and EVG unions to take part in the 24-hour stoppage.

"A labour struggle that has no impact is toothless," the Verdi leader, Frank Werneke, told the public broadcaster Phoenix. Verdi represents about 2.5 million public sector employees, while EVG represents 230,000 workers on the railways and at bus companies. Verdi is demanding a 10.5% rise in monthly salaries and EVG is seeking a 12% rise for its members. Employers – mostly the state and public sector companies – have so far refused the demands, instead offering a 5% rise with two one-off payments of €1,000 (£880) and €1,500, this year and next.

Some unions have recently succeeded in winning big pay increases. Postal workers secured average monthly increases of 11.5% earlier in March, and in November IG Metall, Germany's biggest union, achieved rises totalling 8.5% for almost 4 million employees it represents.

Earthquake in Turkey & Syria: Roundtable invitation



Our good friend Dr. Emre Eren Korkmaz of the Oxford Centre for Technology and Development ([OCTD](#)) Ltd., is convening a roundtable meeting in Oxford on April 25th for investors interested in helping Turkey after the recent devastating earthquake in which there were 45,968 confirmed deaths, along with 7,259 in Syria.

At the roundtable, Emre will introduce their "credit scoring and microcredit project" to help raise funding. You can reach Emre at: Emre Eren Korkmaz emreerenkorkmaz@gmail.com. See also [Roundtable Invitation](#)

Latin America: HR Policy Global's Latin America Summit



Following the highly successful Asia Pacific summit in Singapore, the next big global event for HR Policy Global is our [2023 Latin America Summit](#) which will place in **Orlando, Florida, May 11-12**. Open to all HR Policy members, the event will focus on the challenges and opportunities facing multinational corporations and HR leaders in Latin America. The conference program includes [Ram Krishnan](#), Chief Operating Officer, Emerson, [Beck Bailey](#), Chief Diversity Officer, Accenture, [Christiane Berlinck](#),

CHRO of OLX Brazil, and [Bricklin Dwyer](#), Chief Economist and Head of Mastercard Economics Institute. We will also cover:

- *How Regional and Global HR leaders Support Business and Operations*
- *Regional Economic Challenges and Outlook*
- *What Does Diversity and Inclusion Mean for LATAM?*
- *Challenges of Talent Management and Employee Relations in the Region*
- *Mexico Labor Reform: What to Expect After May 2023?*
- *Near-Term Issues on Business and Employment in Brazil*

The meeting is structured in such a way as to allow those attending ample time to meet and network with peers and to build out contact lists.

If you have operations in Latin America, this is the program for your headquarter colleagues who deal with the region and in-country colleagues with on-the ground responsibilities.

[Register HERE](#) for this event

Training: Managing ER in Europe

April 18 – 21, Hotel Estela, Sitges, Barcelona

Managing European Employee Relations In Europe is BEERG's flagship training program. It familiarises attendees with the architecture of EU-level employee relations and issues of current concern.

The program looks at current issues and also examines and explains the cultural gap between the EU and the US when it comes to understanding the legislative frameworks operating in the EU as well as the labour relations structures in individual companies. [Program Brochure](#)

[Book April Training](#)

BEERG Members' Annual European Summit

June 14 – 16, Hotel Estela, Sitges, Barcelona

The 2023 Summer Network Summit will be at the Hotel Estela, Sitges, Barcelona, from Wednesday evening, June 14 to Friday lunchtime, June 16. The meeting will open with a networking welcome reception on the evening of June 14. Agenda items on Thursday and Friday will include –

- State of play on EWCS/Radtke Report;
- Anticipating the EU's Due Diligence Directive;
- AI and GDPR;
- 50 years of EU membership: UK and Ireland;
- What's happening in the US; and,
- a general round up of EU developments.

The meeting attendance fee is €250. [Meeting Brochure](#)

[BOOK June Members' Summit](#)

*BEERG/HR Policy Global Members can self-register for these events via the links above. If you get a "No Tickets Available for Purchase" message make sure you are logged in – if the issue persists contact [Derek](#).

Upcoming BEERG Dates for your Diary:

Date	Event	Booking Links	Venue
April 18 - 21	BEERG Training: "Managing ER in Europe" Program details	BOOK April Training	Hotel Estela, Sitges, Barcelona, Spain
May 11-12	HR Policy Global's 2023 Latin America Summit	BOOK Latin America Summit	Hyatt Regency, Orlando, Florida
June 14 - 16	BEERG Members' Annual European Summit Meeting brochure	BOOK June Members' Summit	Hotel Estela, Sitges, Barcelona, Spain
Sept 27 & 28	BEERG Members Meeting		Brussels, Belgium
Oct 10 - 13	BEERG Training: "Managing ER in Europe"		Hotel Estela, Sitges, Barcelona, Spain