

Ensuring Equal Opportunities in The Workspace When Organizing Working Hours

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ABSTRACT

This article reviews the question of whether the existing EU legal provision on working time is effective in guaranteeing substantive equality of opportunity in employment. It highlights a doctrinal gap in the EU labour law: whereas the Directive 2003/88/EC is officially intended to be a health and safety tool, the effect of this tool on equality (especially indirect discrimination and care responsibilities and disability accommodation) is still conceptually undeveloped and inconsistently applied. The research is characterized by a doctrinal legal approach, a mix of the analysis of EU primary and secondary law, and the Court of Justice of the EU case-law. The wider applicability of EU standards, such as to the Ukrainian labour law reform, is evaluated in a limited comparative perspective. The results show that formally neutral working-time practices, including long working hours, inflexible working schedules, and expansive derogations, may have disproportionately negative effects on women, caregivers, and persons with disabilities. The study reveals that the current framework has a weakness not in the lack of legal norms, but in its piecemeal interpretation of equality and ineffective enforcement procedures, especially in the area of working-time recording and opt-outs. The article contributes to the legal doctrine by conceptualizing the regulation of working time as an equality mechanism, not a technical or health-related problem. It calls for an equality-based review into the working-time law and suggests the reinforcement of enforcement, curtailing of derogations, and acknowledgement of access to flexible working arrangements as an element of employment equality.

Keywords: Equal Employment Opportunities; Indirect Discrimination; Labour Law; Work-Life Balance; Working Time Regulation.

ABSTRAK

Artikel ini mengulas pertanyaan apakah ketentuan hukum Uni Eropa yang ada tentang waktu kerja efektif untuk menjamin kesetaraan kesempatan kerja yang substantif. Artikel ini menyoroti kesenjangan doktrinal dalam hukum ketenagakerjaan Uni Eropa: meskipun Direktif 2003/88/EC secara resmi dimaksudkan sebagai alat kesehatan dan keselamatan, efek alat ini terhadap kesetaraan (terutama diskriminasi tidak langsung dan tanggung jawab pengasuhan serta akomodasi disabilitas) masih belum dikembangkan secara konseptual dan diterapkan secara tidak konsisten. Penelitian ini dicirikan oleh pendekatan hukum doktrinal, perpaduan analisis hukum primer dan sekunder Uni Eropa serta yurisprudensi Mahkamah Eropa. Penerapan standar Uni Eropa yang lebih luas, seperti pada reformasi hukum ketenagakerjaan Ukraina, dievaluasi dalam perspektif komparatif yang terbatas. Hasil penelitian menunjukkan bahwa praktik waktu kerja yang secara formal netral, termasuk jam kerja yang panjang, jadwal kerja yang tidak fleksibel, dan penyimpangan yang luas, dapat memiliki dampak negatif yang tidak proporsional terhadap perempuan, pengasuh, dan penyandang disabilitas. Studi ini mengungkapkan bahwa kerangka kerja saat ini memiliki kelemahan bukan pada kurangnya norma hukum, tetapi pada interpretasi kesetaraan yang terfragmentasi dan prosedur penegakan hukum yang tidak efektif, terutama di bidang pencatatan waktu kerja dan pengecualian. Artikel ini memberikan kontribusi pada doktrin hukum melalui konseptualisasi pengaturan waktu kerja sebagai mekanisme kesetaraan, bukan masalah teknis atau terkait kesehatan. Artikel ini menyerukan peninjauan berbasis kesetaraan terhadap hukum waktu kerja dan menyarankan penguatan penegakan hukum, pembatasan penyimpangan, dan pengakuan akses terhadap pengaturan kerja fleksibel sebagai elemen kesetaraan kerja.

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Kata kunci: Diskriminasi Tidak Langsung; Hukum Perburuhan; Keseimbangan Kehidupan Kerja; Kesempatan Kerja yang Setara; Regulasi Waktu Kerja.

INTRODUCTION

Ensuring equal opportunities in the workplace is fundamental to creating a fair and inclusive work environment. Despite the article's focus on EU labour law, its topic is pertinent outside of the EU because EU labour standards are increasingly used as a benchmark for legal reforms, particularly in jurisdictions that are approximating their laws to those of the EU and in more general discussions about workers' rights, equality, and decent work in the context of globalization (Shcherbyna, 2024). Because of this, working time regulation in the EU is not analysed here as a purely regional issue, but rather as a model for evaluating how working-time regulations can impact substantive equality in employment and can guide the development of labour laws in other legal systems, such as Ukraine and, in comparison, other jurisdictions that are concerned with equal opportunity in employment. This process depends on the legislative regulation of working hours, which establishes the circumstances in which employees can effectively exercise their rights to equality in the workplace, rest, and health. This allows employees to maximize their professional potential in addition to improving the quality of their working life (Tkachenko, 2024a).

Under EU law, equal job opportunities are guaranteed by a combination of anti-discrimination and labour laws. The legal significance of working-time organizations stems from the fact that a worker's ability to successfully enter, stay in, and advance in employment may depend on their access to flexible schedules, reduced hours, scheduled rest intervals, and protection from excessive hours. In three doctrinal dimensions, this link is particularly evident. First, unless it is objectively justified and proportionate, working-time arrangements may lead to indirect discrimination when a legally neutral rule disadvantages those who share a protected feature. Second, the legal status of parents and caregivers demonstrates how EU law is beginning to recognize flexible employment arrangements as a component of a larger framework for work-life balance. Third, the arrangement of work schedules may be a component of the reasonable accommodations required for successful employment participation. Because of these factors, the way that working hours are organized should be examined as a mechanism that either helps or hinders substantive equality in the workplace, in addition to being a technical issue of labour management or occupational safety (Kostruba et al., 2023).

The topic of fair working time distribution is becoming increasingly relevant in today's labour market, as expectations from employees are growing. These issues are seen as important components of the EU plan to improve working conditions. In addition to reducing stress and preventing burnout, flexible working hours and shorter working days ensure that all employees, regardless of social or professional status, are given equal opportunities. These elements raise serious questions about how effective time management practices can support equity in the workplace and guarantee fair working conditions for all. There are several important reasons why it is worthwhile to research how to ensure fair opportunities in the workplace when organizing working hours.

Firstly, the need for flexible working conditions is increasing due to the current changes in the modern labour market. In this regard, it is extremely significant to comprehend in what way equality in working place may be influenced by introducing flexible working schedules and fewer working hours. The results of this study will be useful in determining how these modifications can be applied to bolster working conditions for all types of workers, such as those who find it difficult to obtain flexible working hours (Yaroshenko et al., 2024a). Secondly, flexible working arrangements and evenly distributed working

hours can help reduce excessive working hours, which is a key component of work-life balance. This is an important topic, as excessive effort can lead to workplace burnout, reduced productivity, and harmful effects on employee health (Yermachenko et al., 2023). Examining the potential impact of different time management strategies on equality of opportunity can help identify best practices and policies to promote an inclusive and supportive work environment (Yaroshenko et al., 2024b).

Many scholars have studied the topic of working time. In particular, Rym (2020) analyses the organization of work in the EU, including minimum standards, maximum working hours, and minimum rest periods. She examines the effect of Directive 2003/88/EC (European Parliament and the Council, 2003), which covers all areas of activity with few exceptions, and the concept of employee within the EU. The main principle is to adapt work to the needs of the employee. The issues of working time accounting, including waiting time and switching, are considered. The need to revise the Directive to improve the work-life balance by moving to more flexible models of time use is emphasized. Oleksienko (2024) analyses the international regulation of non-standard working hours, in particular, the acts of the International Labour Organization and EU Directives.

In this article, "equal opportunities" is interpreted as a legal notion based on EU law rather than as a broad social ideal. It is related to the EU Charter of Fundamental Rights, specifically Articles 21, 23, 31, and 33, which forbids discrimination, upholds the equality of men and women, protects people with disabilities, guarantees fair and just working conditions, and protects family and professional life. Equal opportunities in employment require, both formally in terms of the neutrality of labour legislation and in a legal review of whether apparently neutral working-time practices disadvantage some workers, especially women, workers with disabilities, and workers with care responsibilities.

The international norms are given priority over national norms in Ukraine, and in case there is an occurrence of a conflict, the former are used in the majority. Directive 90/270/EC on the safety of working with screen devices is of particular interest as it is not included in Ukrainian legislation and as the necessity to adhere to the labour protection requirements. Tkachenko (2024b) observed the issues and difficulties of the work time regulation in the EU countries. The analysis of regulations and their realization, the plurality of national approaches, the flexibility and protection of the rights of employees, the technological changes, social dialogue, and health and safety are the primary aspects. Certain examples of EU Member States and actions to overcome their issues are taken into consideration. Niebuhr et al. (2022) examined the effects of telecommuting on the health and job satisfaction of German employees. The data analysis revealed that the functionality of technical equipment at home has a positive effect on health and job satisfaction. A systematic review of studies examining the relationship between shift work and long working hours and chronic diseases was carried out by Rivera and Akanbi (2020).

The research question is whether the current EU regulatory framework on working hours can provide equal job chances in a substantive, as opposed to merely formal, meaning. The article specifically investigates whether the organization of working time under Directive 2003/88/EC, read in conjunction with the EU Charter of Fundamental Rights and related equality legislation, sufficiently protects workers whose access to employment or career advancement may be negatively impacted by strict scheduling, excessive hours, care responsibilities, disabilities, or gendered patterns of unpaid work.

The article makes the case that regulations pertaining to working hours should not be viewed solely in terms of occupational health and safety. Because seemingly neutral working-time arrangements may result in disproportionate disadvantages for some worker groups and thus undermine substantive equality in employment, it must also be examined as an equal-opportunities issue. Thus, the article's goals are to determine the doctrinal connection between equal opportunity and working-time regulation,

evaluate the advantages and disadvantages of the current EU legal framework, and develop suggestions for enhancing workers' legal protection in this area.

RESEARCH METHOD

A doctrinal legal research approach is used in this paper. The primary approach is doctrinal analysis of EU legal sources pertaining to working hours and employment equality, mainly Directive 2003/88/EC, the EU Charter of Fundamental Rights, and related equality instruments pertinent to work-life balance, disability accommodations, and indirect discrimination. In order to shed light on the legal definition of working time, the extent of employers' responsibilities, and the practical enforcement of workers' rights, the article also employs case-law analysis from the Court of Justice of the European Union. The judicial interpretation of time-recording responsibilities, travel time, and on-call time is given special consideration.

Furthermore, a limited comparative labour-law viewpoint is included in the study. This comparative aspect is used to show the wider relevance of EU working-time regulation and, when applicable, to indicate implications for Ukrainian labour-law reform in terms of legal approximation to the EU compliance rather than to conduct a comprehensive multi-country survey. The research's analytical steps are as follows: first, the pertinent legal norms are identified; second, their content and structure are interpreted; third, judicial clarification of those norms is examined; and fourth, it is determined whether the existing legal framework sufficiently supports equal employment opportunities.

RESULTS AND DISCUSSION

Working time organisation as a legal issue of worker protection and equality

EU working-time regulations should be examined as both a framework that may impact equality in access to and conditions of employment and a legal instrument for safeguarding the health and safety of workers. Despite the Working Time Directive's formal structure as a health-and-safety tool, its regulations regarding hours of employment, daily and weekly rest, night work, and derogations have an impact on employees' practical ability to strike a balance between paid work and family duties, care responsibilities, or disability-related needs (Tkachenko, 2024c).

The EU is following current labour market trends by making changes to the work environment that better support work-life balance, flexibility, and adaptability. This is beneficial for both businesses and employees, as increased productivity and competitiveness are critical in today's globalized economy. To ensure that workers are adequately protected and that their personal and professional lives can coexist in a friendly manner, the European Union continues to work to improve legislation and introduce new policies (Kvasco & Hryhorova, 2022). Working time regimes, like other regimes, are influenced by the institutional, cultural, and regulatory environment of a society. European businesses have to contend with different labour needs and institutional rules that differ from country to country. In addition, differences in production systems across countries have led to different approaches employers take to achieve a competitive advantage (Hukov-Kushnir & Ivaniv, 2024).

Excessive working hours, shift work, and lack of schedule control can disproportionately affect workers with care obligations and may exacerbate already-existing gender disparities in the labour market, according to empirical studies and labour statistics. However, for the purposes of this article, such information is pertinent not as a goal in and of itself but rather because it clarifies why the legal arrangement of working hours may have practical repercussions for equality (International Labor Organization, 2024)..

Working time organisation and equal opportunities in employment

Since formally neutral scheduling regulations may harm some workers more than others, working-time organizations are legally relevant for equal chances. Workers with care obligations, especially women, may be disproportionately affected by long hours, erratic schedules, or the denial of flexible arrangements. These issues may also affect workers who need modified work schedules due to disabilities. In such a situation, it is a matter of substantive equality in work and not just convenience or productivity.

The idea of indirect discrimination, which is embodied in Directive 2000/78/EC on equal treatment in employment, can be used to frame this issue from the perspective of EU equality law. An apparently neutral law, criterion, or practice can be indirectly discriminatory when it puts members of a protected group at a special disadvantage, and there is no objective justification of a legitimate purpose, and the means of achieving that purpose are appropriate and justified. This doctrinal approach is particularly pertinent in situations where women, people with disabilities, and caregivers are disadvantaged in the workforce due to strict or excessive work schedules. For independent contractors, temporary workers, and those working part-time, there was a weaker relationship between work and personal life and job satisfaction. A similar pattern was observed when workers cared for the elderly and gave birth to their first child. Thus, there will be an economic separation between work and personal life for temporary workers, part-time workers, and independent contractors (Rym, 2020).

Excessive hours of employment, shift work, and lack of control over the work schedule were most often cited as reasons for employee dissatisfaction with working hours. Women from continental, Scandinavian, and southern countries reported that the biggest source of their dissatisfaction was long hours of work. This could be because women worked more and men lost their jobs during the economic downturn in Europe. In continental, eastern, and northern Europe, and southern Europe, men were more likely to state that they had no control over their working hours. This is consistent with the newly defined concept of employment that has given rise to flexible working (Su et al., 2022). So-called "unsocial" working hours (i.e., not convenient for workers) are usually used to make the most of capital investment (manufacturing industry) or to meet consumer demand at different times (service sector); while high working time autonomy means employee-friendly flexibility (Oleksienko, 2024).

EU legislation on working hours

The EU Charter of Fundamental Rights and Directive 2003/88/EC, which was adopted on 4 November 2003 on specific working time issues, are currently the main pieces of legislation in the EU that set out working time rules. Article 31 of the Charter specifically guarantees the right of every worker to safe, healthy, and decent working conditions. Such conditions ought to incorporate restrictions in the number of hours worked, minimum rest periods per day and week, and paid vacation a year.

Directive 2003/88/EC is the main EU regulation regulating working time and rest periods. It controls derogations (Article 17), permits reference periods (Article 16(b)), sets weekly working time restrictions (Article 6), and offers conditional opt-out procedures (Article 22). This is a secondary legislative act that establishes minimum requirements for safety and occupational hygiene in the field of working hours. It replaced Directive 93/104/EC of the same name and is the second act of its kind at the EU level. The adoption of the latter in 1993 was seen as a great success of EU social policy. Still, it would ultimately be characterized as a strange compromise (European Parliament and the Council, 2003).

It is important to remember that the basis for its approval was Article 118a of the Rome Convention on Labor Protection, which was in force at that time. In this approach, the Council was

looking for a way to adopt the relevant act without the participation of Great Britain, since Great Britain categorically opposes the establishment of supranational regulation of any sphere of employment. The UK was deprived of the ability to veto the directive, as Article 118a sets out the process for the adoption of a directive by the consent of a qualified majority of the members of the Council. However, the UK persisted in opposing this even after that, and following the approval of Directive 93/104/EC, brought an action before the Court of Justice of the European Union to have it annulled because it had been approved outside of the Council's remit. Having considered the case, the court did not find sufficient grounds for satisfaction of the claim. Furthermore, he stated that the proportionality criterion had not been breached in the adoption of this Directive (Tkachenko, 2024c).

Therefore, the EU Court played a decisive role in preventing a limited interpretation of the provisions of Directive 93/104/EC, which was the justification for the adoption of Article. 118a. The court rejected the applicant's understanding of "employee health and safety", which limited the concept to actions taken to avoid illnesses and accidents at work. Rather, the Court's decision codifies a much more expansive interpretation of it. The Court stated that nothing in the text of Art. 118a of the Treaty of Rome addresses the fact that the working environment, safety, and health as applied in this clause are to be construed narrowly and not as all the factors, physical or otherwise, that may impact the health and safety of employees, including certain principles of the organization of working hours.

The relevant clauses of Directive 93/104/EC had to be codified in the light of numerous additions and changes introduced during the year 2000. Hence, the EU approved Directive 2003/88/EC in 2003 setting minimum working time requirements. In particular, the minimum requirements for the duration of rest and the longest working hours possible (European Parliament and the Council, 2003). This Directive covers all areas of activity (public and commercial) and all personnel, with very few exceptions. It is necessary to apply the unified EU definition of "employee" in the context of its application.

Working time and rest time are defined in Directive 2003/88/EC, and intermediate time categories are not included. According to Directive 2003/88/EEC, "working time" refers to any hour during which an employee is working and is at the disposal of the employer and is carrying out his duties as stipulated by local laws and/or customs.. All time spent without work is a period of rest. There is no standard formula for balancing the interests of employers and employees under Article 13 of Directive 2003/88/EC. Instead, it embodies the worker-protective notion that, in the interest of health and safety, labour must be tailored to the worker, especially in order to reduce boring work and work at a set rate (Gornick & Heron, 2020).

Article 6 of Directive 2003/88/EC states that the maximum number of hours that a worker should work within any seven-day period inclusive of overtime is 48 hours. Moreover, Article 16(b) allows the Member States to establish a reference period of not more than four months in order to apply Article 6. Article 22 of Directive 2003/88/EC governs the option of not imposing the 48-hour restriction, and it cannot be reduced to a straightforward question of worker permission. An individual opt-out may only be permitted by a Member State if a number of mandatory safeguards are upheld. These include the employee's free consent, protection from any consequences for declining to consent, the employer's maintenance of current records, and the accessibility of such records to the appropriate authorities. Thus, the opt-out option should be understood as a specifically conditioned exemption, and not such a general contractual release.

Directive 2003/88/EC permits derogations under certain circumstances specified in Article 17, but derogations should be of a precise description. They concern, for example, activities where working time is not measured or predetermined, certain autonomous decision-making functions, family

workers, workers officiating at religious ceremonies, and some sectors or activities requiring continuity of service or involving distance between the workplace and the worker's residence. The Directive does not list "childbirth" as a ground of exception under Article 17. The cases mentioned above concern mainly family businesses, employees who perform religious rites in churches and other religious organizations, managers, or other persons who have independent authority to make decisions (Li et al., 2020).

Directive 2003/88/EC establishes a 48-hour working week, but it is unclear how many employment contracts may be affected by these restrictions (European Parliament and the Council, 2003). The European Commission states that the employee should be given the benefit of the doubt regarding the relevant pass. Therefore, the EC proposes to apply the established maximum to all employment contracts of the employee, especially to those concluded with different employers. Moreover, there is Directive 2003/88 EC that regulates most of the elements of the night work: workers who during the night time they work at least three hours of the daily working time in normal regime, and who by the legislation of the member states or collective agreements can work a specific portion of their annual working time in the night.

Exceptions and special cases in working time regulation

It should be emphasized that the human being is more susceptible to environmental changes and some difficult working conditions during the night. As a result, long night shifts can be hazardous to workers' health and jeopardize workplace safety. The regular working hours of the night workers should therefore not exceed an average of 8 hours in a 24-hour period, which must in any case include the interval between 24 and 5 hours, as specified in Article 8 of the Directive (Chung & Van der Lippe, 2020). When people are working at night, those who are exposed to some risks or undergo considerable stress (physically or mentally) are restricted to a maximum of 8 hours of work during 24 hours. Thus, an absolute 8-hour limit is established for harmful and risky night work, and an average 8-hour limit for other forms of night work.

Additional guarantees of the rights of workers who work at night include the possibility of applying for transfer to day work if night work causes health disorders, free primary, and periodic medical examinations, as well as labour protection measures considering the specifics of working conditions at night. The possibility of member states deviating from the specified provisions of Directive 2003/88 regarding employees with irregular working hours (Part 1 of Article 17), remoteness of the workplace from the employee's place of residence (paragraph "a" of Part 3 of Article 17), activities related to security and supervision, which require constant presence for protecting property and persons (clause "b" part 3 of Article 17), activities which require continuity of service or production (clause "c" part 3, Article 17) and other situations can be the biggest obstacle to the implementation of guarantees of work at night. It is also possible to deviate from the communitarian rules through the adoption of collective agreements or agreements (Article 18).

As far as the working time regulation at the EU level is concerned, one of the most controversial issues is the statutory determination of the time an employee waits for a call from an employer or a job. While waiting, the employee must generally be available for work when needed, so the waiting time cannot be treated as time off. After all, it is difficult to say with certainty that waiting time equals working time. For example, an employee can do whatever they want when they are at home, as long as the employer can contact them in an emergency (Sato et al., 2020).

Given the priority selection, it was necessary to ask whether all waiting time should be considered working time and compensated as such. The ECJ responded by confirming that even if a doctor is

physically unable to perform work, his time spent in a medical facility in readiness for this, even with a separate restroom, should qualify as working time. It is sufficient to consider an employee subordinate to the employer if he is required to be constantly vigilant and stay on the employer's territory. As a result, the definition of working hours cannot take into account the level of effort; rather it can only be determined by the employee's duty to be available to the employer. Even when the employee is not working, waiting time cannot be equated with rest time, as the Court noted. In the literature, this type of waiting is called active.

If the doctor was on call at a location other than the hospital, only the time the employee worked could count as working time. Court of the European Union in the case *Landeshauptstadt Kiel v. Norbert Jeger* ruled that an employee's presence outside the company's premises and the associated duty to communicate does not prevent him or her from managing his or her time and pursuing personal interests with fewer restrictions than they would otherwise have. at work. Passive waiting time is the time during which the employee is not working and is in a state of readiness outside the office. The latter did not receive compensation and was not considered working time until 2018. The results of *Ville de Nivelles vs. Rudy Matzak* brought some changes to the situation.

In this case, the ECJ had to determine whether the waiting time of the employee at home, if the employer had designated such a place, could be considered working time, since it allowed the employee to fulfil another obligation, which was to answer the employer's call and arrive at the workplace within eight minutes. The worker could use this time however he wanted, because, on the one hand, he was at home and needed to communicate. However, time restrictions (the need to arrive at work within 8 minutes after the call) and territorial restrictions (the obligation to physically stay in a place determined by the employer) objectively reduced the employee's ability to implement his plans and pursue his interests. The situation in *Ville de Nivelles v. Rudy Matzak* differs from the example of waiting periods for a doctor at home mentioned above because of these factors (Kocher, 2023).

Thus, the EU Court ruled that the notion of working time as per Directive 2003/88 encompasses the waiting time that the employee is bound to spend at home in order to be available to the employer as well as be in a position to reach the place of work within 8 minutes. In the context of establishing the eligibility of a certain period before working hours, the decision of the Court of Justice of the European Union in the case *Federación de Servicios Privados del sindicato Comisiones obreras (CC.OO.) v Tyco Integrated Security SL and Tyco Integrated Fire & Security Corporation Servicios SA* is important. The Court established whether the time the employee visits (travels) to the last client and back is considered part of his working time. In particular, employees of a private security agency who were in the central office due to the closure of the regional office of the employer believed that the time spent traveling in a company car to and from the employer's first and last client should be considered working time. and demanded appropriate compensation.

In 2011, the regional representative offices of the "Taiko" group of enterprises were closed due to a change in the regime of working hours and calculations. Specifically, before the reorganization, the corporation classified the time it took employees to get from the last customer to the regional office and the first customer as work time. However, she later refused to count the workers' journey from home to work as working hours. Travel time of employees between clients was counted as working time (Niebuhr et al., 2022). In its decision, the EU Court explained that the employee's place of work cannot be linked exclusively to the client's property. In addition, technicians were no longer free to choose the distance between their places of residence and their work places due to the closing of Tyco's regional offices. In conclusion, we can say that this type of employee works on the way to and from the first client. Furthermore, the technicians were essentially at the disposal of the employer, as they could not manage

their affairs or use their time independently during the trip. Finally, the EU Court established the suitability of the travel time to work and home to work time, as long as the work is commuting, and the workplace of the employee is not well established.

Judgment in *Federación de Servicios Privados del sindicato Comisiones obreras (CC. OO.) v Tyco Integrated Security SL and Tyco Integrated Fire & Security Corporation Servicios SA.* continued the precedent practice of approving a unitary model of working hours, which was initiated in 2000 following the decision in *Sindicato de Médicos de Asistencia Pública (Simap) v Conselleria de Sanidad y Consumo de la Generalidad Valenciana* (Van der Lippe & Lippényi, 2020).

Controversial issues regarding the accounting of working hours were also resolved with the help of court practice. In particular, on May 14, 2019, the European Court issued a decision confirming the obligation of employers to introduce a regular working time accounting system. A system should be unbiased, reliable, available, and able to calculate how much time each person spends at work each day. The Court considers that the absence of such systems jeopardizes the effectiveness of supranational provisions protecting workers' rights to minimum rest periods and longest working hours by making it impossible to reliably determine the length of working hours or rest periods. Although the Court's decision in this case does not contain a clear instruction to account for employees' rest time. In addition, the issue of accounting for the time spent by the employee for e-mail correspondence with the employer from home, or the time for business telephone conversations outside the employer's premises, remains unresolved (Rodríguez-Modroño & López-Igual, 2021).

Regulation 561/2006 dated March 15, 2006 "On the harmonization of certain social legislation relating to road transport" (European Parliament and the Council, 2006). The study of Directive 2003/88/EC and the judicial enforcement of its implementation demonstrates noticeable shortcomings in ensuring the rights of employees to limit the total duration of the working day. The introduction of the directive has shown severe issues, despite the fact that it is allowing working time regulations that will safeguard the health and safety of the workers. In certain situations, the provisions of the directive enable the member states to bypass their core duties, which diminishes the safeguards that workers deserve (Rivera et al., 2020).

The possible elimination of the 48-hour working week is among the most controversial, as it is the main protection against overworking and the related health risks that workers face. The Directive however leaves a lot of room to Member States in the application of this limit and this in effect implies that in certain countries the working week can be more than 48 hours provided this is stipulated by national law or labour agreements. It is not only that the Directive is flawed; the fact that the Directive has only limited enforcement mechanisms and a derogation structure can result in worker protection being less effective in practice. This is especially necessary in cases where a formal availability of rights does not guarantee an equal enjoyment of such rights in practice. Due to this fact, the directive has many exceptions through which companies could get out of the requirements including collective agreements which tend to favour the interests of employers at the expense of the right of the workers.

Moreover, the fact that the main objective of the directive is compromised with the fact that the allowed derogations or exemptions can be used to alter the terms of the directive particularly in the context of globalization of the labour market. It is very hard to have the assurance that workers in all the EU member states are granted equal protection under this strategy, particularly in those countries where the national government is more inclined to cater to the interests of employers (Härmä et al., 2020). These realities raise major concerns on the capacity of Directive 2003/88/EC to address the current working demands. There is a growing urgency to revise and re-write the directive to reflect the modern conditions as employment relations have become more relaxed and the balance between work

and family life is of paramount importance. This entails the necessity to reinforce assurances on the safeguarding of the rights of workers and the need to update the approaches to working hours monitoring considerations in the context of contemporary needs and issues.

Evolving EU working-time policy: Flexibility, enforcement, and equal opportunities

The legal nature of the pertinent standards must come first when discussing working-time regulation. Though the minimum standards established by the Directive 2003/88/EC aim at ensuring health and safety of workers, its practical implications are broader than that since the organization and recording of working hours influences the real availability of jobs to different categories of workers. In this meaning equal opportunities cannot be reduced to a sentiment of justice in general. Working-time arrangements need to be considered lawfully to ensure that derogations are not over-general, that formally neutral scheduling practices do not overburden employees with care responsibilities, or employees affected by gendered differences in unpaid labour (Delfino & Van Der Kolk, 2021).

Judicial interpretation is needed in this instance. A good example of this is the case *CCOO v Deutsche Bank* (Case C-55/18), where the Court required that Member States ensure that employers establish an effective, reliable and easily available system of tracking and recording daily working time. The case law of the Court of Justice of the European Union illustrates that mechanisms to enforce the definition of working time and the effectiveness of the entitlement to rest are as crucial to the definition of working time and the effectiveness of the right to rest as the wording of legislation (Lin et al., 2021). It is specifically important to create an objective, credible, and conveniently available mechanism of quantifying daily working time as rights to the maximum working time and minimum rest intervals are worthless unless they can be practically confirmed. Since unseen overtime, unrecorded work, and lack of access to predictable schedules become more prevalent with less powers of bargaining, the enforceability of working-time rights is also an equity concern.

The European Commission is working on coming up with new proposals that would provide a more balanced approach to the personal and working life of workers. This theme has been especially topical because of the fast development of the field of technology as well as the dynamism of the labour market that means both threats and opportunities. As an example, the 2017 joint report by the ILO and the European Foundation of the Improvement of Living and Working Conditions entitled *Work Anytime, Anywhere: Impact on the World of Work*, stated that technological advancements are making work and learning accessible, but they are also causing major disruptions in maintaining work-life balance.

The EU aims to replace the traditional division of time between work and leisure with more integrated and flexible methods of time management. These new models aim to enable employees to combine work with education, professional development, volunteering, and recreation. This strategy takes into account the realities of today's work environment, which include an ever-changing workforce and a dynamic work environment (Semenets-Orlova et al., 2023). One strategy to ensure a better work-life balance in this context is to propose a reduction in the maximum number of working hours. Whether these adjustments will meet the interests of workers and the realities of the European labour market is still being debated. While working fewer hours can reduce stress and improve quality of life, there may be economic implications that need to be carefully considered and discussed (Angelici & Profeta, 2024).

In light of this, the European Union has already made significant progress towards ensuring a balance between family and working life, especially for parents and carers. Legally speaking, this development is significant since parents' and caregivers' access to flexible work schedules shouldn't be viewed as a managerial perk. It is becoming more and more integrated into the EU framework that promotes equal workforce participation. The claim that working-time organizations are closely linked to equal chances in the workplace is strengthened by the freedom to seek flexible working arrangements, together with carers' leave and related protections. In particular, the previous Council Directive 2010/18/EU was replaced on June 20, 2019, by the adoption of Directive 2019/1158 on the work-life balance of parents and guardians. This new directive provides a broad scope of measures to modernize the EU law. It is also designed to ensure gender equality in the labour market and provide a conducive work-family balance.

Directive 2019/1158 gives employees who are parents or caregivers new rights, such as the ability to ask for flexible work schedules under Article 9. These rights incorporate the right to parental leave, flexible working hours, and other provisions to enable one to balance work and family life. In order to become more socially just in the European Union, it also seeks to eradicate the gap between the pay of women in the labour market and to mobilize women to be more active in the labour market. Overall, some progress has been made in achieving work-life balance, although the European Union is still looking for solutions. Additional modifications will have to be thought through to guarantee that the new policy will address the needs of both workers and the reality of the economy (De Stefano et al., 2021).

The same can be said of employees who are disabled. Under the employment law, equal opportunity might require reasonable accommodations including changing work schedules, but not the same treatment. Consequently, the juridical analysis of the working time cannot be limited to the formal uniformity of schedules, but it also has to refer to whether the structure of work allows the employees with disabilities to participate in the employment in an effective and non-discriminative way. The practical value of this analysis in Ukrainian context is quite evident. The labour laws in Ukraine have already fixed a formal normative basis of equal job opportunities protection as they have already outlawed regular working hours to 40 hours per week and prohibited workplace discrimination. At the same time, the Ukrainian legal system slowly transforms into one closer to the EU law, especially regarding the equal opportunities, social policy, and employment.

In this connection, the working-time regulation strategy of the EU is relevant as a foreign example and as a benchmark of future reform of the labour law in Ukraine. Three aspects are especially important: (1) stricter legalization of flexible working without reducing the protection of workers; (2) the strengthening of enforcement procedures, especially through proper timekeeping; and (3) a more explicit inclusion of equality analysis in the regulations related to scheduling, care obligations and remote workplace. As a result, the Ukrainian aspect of the problem demonstrates that the scheduling of working hours should be considered both as a technical labour management issue and as part of a larger legal reform that aims to safeguard equal opportunities, health, and dignity at work.

The issue's wider significance for non-EU nations is further demonstrated by a comparative viewpoint. Equal opportunity and treatment without discrimination in employment are also recognized by Indonesian labour law, which also governs regular working hours and rest periods. This demonstrates that the relationship between working hours and equal chances is not exclusive to Europe; rather, it is part of a larger labour-law issue pertaining to how officially neutral

regulations regarding scheduling and hours determine actual access to work and employment equality.

CONCLUSION

This article has demonstrated that the organization of working hours under EU law is a question of equal employment opportunities as well as occupational health and safety. Thus, the research question is answered in the following way: Despite the fact that the existing EU legal framework includes important guarantees that can be used to facilitate equal opportunities, it does not turn out to work in the desired way as long as the rigid scheduling, excessive hours, wide derogations, and lenient enforcement continue to affect workers who have care responsibilities, women, and persons with disabilities, disproportionately.

The central weakness of the system as it is not the absence of regulations but the weak conceptualization of the equality-based analysis and working-time protection. Working-time regulations can only promote equal opportunities when interpreted and implemented together with the principles of non-discrimination, family life and professional life, inclusion of disability, and effective enforcement of legal regulations.

Thus, the future law-making in this field should focus on: making access to flexible working arrangements by parents and carers a legally relevant element of employment equality; enhancing effective mechanisms to record daily working hours; reducing or more closely overseeing derogations of working-time protection; and integrating equality-based review into the assessment of scheduling practices.

The findings are also relevant in Ukrainian context considering the fact that the country is currently undergoing a labour law reform and the compliance with the EU standards. Thus the law to regulate working hours must not just be put as a technical factor in administering labour but serve as a means of ensuring fair chances, wellness, and respect in the workplace.

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