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WORKING TIME FLEXIBILITY AND ITS LIMITATIONS

1. INTRODUCTION

Originally, working time regulations were intended to increase the level of safety in the process of work[1]. The need for protection against excessive workloads resulted in daily and weekly working time limits, the obligation to ensure rest periods and a proper number of non-working days, as well as paid vacation leave. On the other hand, the last decades have brought significant economic and organizational changes. The traditional model of employment turned out to be inadequate for the circumstances in which work is performed[2]. The legislation could not ignore this phenomenon. As a result, over the recent years working time regulations have become much more flexible[3]. This tendency provokes a question about the limits of changes in the area of working time. Firstly, the tendency to flexibilize working hours must be balanced with the need to safeguard the health and safety of workers. Secondly, the reference points are the axiological foundations of the legal system, including the paradigm of the employment relationship as well as the dignity and autonomy (privacy) of individuals. Thirdly, regulation on working time must be correlated with current policies such as life-long learning and work-life balance[4].

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[1] The limitations on working hours for some categories of workers (mainly children) began the formation of the labour law in a modern sense. Working time was also among first issues regulated by the International Labour Orgnization. About the historical development of working time regulations see e.g. S. Lee, D. McCann, J. C. Messenger, *Working Time Around the World*, London–New York 2007, p. 8 et seq. and p. 24 et seq.

[2] Compare the conclusion formulated by International Labour Office, *Hours of work: from fixed to flexible*? *[International Labour Conference, 93rd Session 2005]*, Geneva 2005, pp. 106–107.

[3] The main idea is to adjust the organization of working hours to the employer's needs. Various methods of such adjustment discusses H. Paoli-Pelvey, *Working time*, (in:) R. Blanpain, C. Engels (eds.), *Comparative Labour Law and Industrial Relations in Industrialized Market Economies*, Kluwer 1993, pp. 410–417.

[4] This text discusses the above-mentioned problems mainly from the European perspective. The aim of the article is not, however, a detailed analysis of the standards arising from the EU legislation. It is rather to present a broader context of the functioning of labour law regulations.

2. FLEXIBLE WORKING TIME FROM THE EMPLOYER'S PERSPECTIVE

The main objective of flexibilization is to organize working time in a more efficient way, respecting changes in workload and unexpected modifications in the process of work[5]. This makes it possible to avoid periods during which the employee is at employer's disposal but does not perform work. Consequently, the "saved" working time can be utilized in periods when work is really needed. The recovering of working hours is not treated as overtime work and consequently it is not covered by overtime pay, which helps limit the costs connected with employment. To achieve these goals, the legislation must accept more flexible approach to normal working hours (average working week, variable daily working hours), relatively long reference periods and flexibilization of working time schedules, including various forms of working time accounts (working time banks)[6]. These solutions obviously help the employer to have work done when there is actual need for it, which results in a more efficient distribution of working time.

The problem of working time flexibilization has worsened with the economic crisis. According to the employers, a lack of flexibility may entail redundancies or even bankruptcies and the closing of companies. As a result, numerous European countries have accepted new legal instruments that have caused an increase in flexibility. In many cases they are applied with the involvement of the social partners[7]. Moreover, the scale of the recession means that issues that arise cannot be solved solely by the parties to the employment relationship or even by social partners. Sometimes public intervention (e.g. support for short-time systems) seems to be necessary. The state may also create a legal framework encouraging the social dialogue[8].

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[5] Compare H. Paoli-Pelvey, *Working time*, (in:) R. Blanpain, C. Engels (eds.), *Comparative Labour Law...*, p. 410.

[6] See more International Labour Office, *Hours of work…*

[7] See more e.g. M. Tiraboschi, S. Spattini, *Anti-crisis Labour Market Measures and their Effectivness between Flexibility and Security*, (in:) T. Davulis, D. Petrylaite (eds.), *Labour Market of 21st Century: Looking for Flexibility and Security*, Cambridge 2012.

[8] The role of the state has increased in times of economic crisis. Compare e.g. R. Torres, *Des réponses partielles à la crise: coûts socio-économiques et implications pour l'action publique*, "Revue Internationale du Travail" 2010, No. 2, pp. 249–250 and V. Glassner, M. Keune, *Crise et politique sociale: la rôle des accords collectifs*, Revue Internationale du Travail 2012, No. 4, pp. 383–384. The use of public funds may be justified by advantageous that can be achieved thanks to the intervention (e.g.; H. Ehmann, *Betriebsrisikolehre und Kurzarbeit*, Berlin 1979, p. 24). The main result that can be reached is the limitation of redundancies (M. Tiraboschi, S. Spattini, *Anti-crisis Labour Market Measures...*, (in:) T. Davulis, D. Petrylaite (eds.), *Labour Market...*).

3. INTERNATIONAL AND EUROPEAN STANDARDS

Searching for the limits on flexibilization, it is necessary to take into account international standards as well as requirements arising from the EU law. The guarantees concerning working hours traditionally constitute an important element of the system of fundamental (human) rights[9]. There is also a direct link between working time and other values protected by the system of fundamental rights: employee dignity, health and safety in the process of work, employee privacy as well as family life. Basic standards have been developed in more detailed instruments, including ILO conventions[10] and EU standards[11].

There are a few remarks to be made concerning supranational standards. Firstly, some of them are of a very general character. They indicate the common values accepted by the international community but sometimes they can be hardly used as a real tool to evaluate technical and more detailed regulations. Secondly, some ILO conventions were prepared in the first half of the 20th century in a different social, economic and technological environment. As a result, they do not fully reflect the current position and needs of the parties to the employment relationship. Some standards, particularly in the area of daily working hours, are

[9] See e.g. art. 24 Universal Declaration of Human Rights (Everyone has the right to rest and leisure, including reasonable limitation of working hours); art. 7 International Covenant on Economic, Social and Cultural Rights (the right of everyone to leisure and reasonable limitation of working hours, as well as remuneration for public holidays) or art. 2 European Social Charter (the Parties are obliged to provide for reasonable daily and weekly working hours and for public holidays with pay; the working week should be progressively reduced to the extent that the increase of productivity and other relevant factors permit).

[10] Working time is dealt with, *inter alia*, the Hours of Work (Industry) Convention, 1919 (No. 1); Hours of Work (Commerce and Offices) Convention, 1930 (No. 30); Forty-Hour Week Convention, 1935 (No. 47); Weekly Rest (Industry) Convention, 1921 (No. 14); Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) or Night Work Convention, 1990 (No. 171). *The necessity to regulate* the hours of work, including the establishment of a maximum working day and week, is declared in the Preamble to the ILO's Constitution.

[11] Article 31.2 Charter of Fundamental Rights of the European Union stipulates that every worker has the right to the limitation of maximum working hours, to daily and weekly rest periods. At the moment more detailed requirements are provided for by the directive 2003/88/EC of the European Parliament and of the Council of November 4, 2003 concerning certain aspects of the organisation of working time (OJ L 299, 18.11.2003, pp. 9–19), hereinafter referred to as "directive 2003/88". See more C. Barnard, *EC Employment Law*, Oxford University Press 2006, p. 373 et seq. and R. Blanpain, *European Labour Law*, Kluwer Law International 2013, pp. 745–747. The directive e.g. defines working time, introduces minimum rest periods and breaks during working days, determines maximum weekly working time and reference periods, finally protects night and shift workers. At the same time the directive provides for various exceptions justified either by the nature of employment or by the agreement of the social partners.

of rigid character. Even from the ILO perspective their full and consequent application may be an obstacle to the employer's activity[12].

The European standards, introduced in 1990's and 2000's, could be adjusted to the changing circumstances to a greater extent. The influence of the EU standards over domestic legal systems is, to a certain extent, ambiguous. The directive could play a protective role in countries in which the level of protection was relatively low. In countries with excessive statutory standards it could only supplement protection in selected areas[13]. Moreover, one could have an impression that sometimes the directive has been used as justification for the flexiblization of working time. It would mean that its real role has been contrary to its protective goals. Moreover, the real importance of the directive is influenced by its legal base (protection of health and safety)[14]. Consequently they do not cover the entire field of the organisation of working time. Its use as a tool of social policy in a broad sense (work-life balance, life-long learning) is limited. Finally, the directive provides a long list of exceptions to the protective standards. It reflects the special character of some groups of workers and the nature of work. It also leaves the necessary room for social partners. Although the need to involve social partners is absolutely justified, it is necessary to take into account the lack of appropriate employee representation in many countries. Not surprisingly, the results of social dialogue may reflect the factual domination of the employer.

The standards determined by the conventions and directives are supplemented by other documents (policies and strategies)[15] which play an increasingly important role. They should not be overlooked because they reflect the most recent objectives of general social policy. They are also based on a comprehensive assessment of the market situation. Usually, they develop the fundamental standards and cannot be inconsistent with the legislative measures. Two of the most important examples are life-long learning approach and work-life balance policy. Consequently, the labour law must facilitate the reconciliation of professional duties, the personal development of working people and family responsibilities. As a result, the legislation must search for equilibrium between employers and employees while respecting all aspects of the social policy. The process of work must be not

[12] Compare International Labour Office, *Hours of work…*

[13] Very important is the unification of the concept of working time achieved thanks to the rulings of the Court of Justice of the European Union. See e.g. the judgments in cases C-303/98 Sindicato de Medicos de Asistencia Publica (Simap) v Conselleria de Sanidad y Consumo de la Generalidad Valenciana, C-151/02 Norbert Jäger v. Landeshauptstadt Kiel or C-14/04 Abdelkader Dellas v Premier ministre i Ministre des Affaires sociales, du Travail et de la Solidarité. The concept created by the Court limited some aspects of employment flexibility.

[14] Article 137 of the Treaty provided that the Community is to support and complement the activities of the Member States with a view to improving the working environment to protect workers' health and safety.

[15] As regards the measures adopted by the European Union (including European employment strategies) see more R. Blanpain, *European Labour*..., p. 288 et seq.

only safe but also – to the extent required – stable and predictable. Otherwise, the achievement of the main goals of the employment strategy could be impossible.

4. FLEXIBLE WORKING TIME AND THE PARADIGM OF THE EMPLOYMENT RELATIONSHIP

From the point of view of employees, flexibilization it is not merely a question of a different allocation of time; it substantially changes the return on their time investment. Even when working the same number of hours as before, their possibilities to address their needs and responsibilities in their personal lives deteriorate. Eventually, this shift in the trade-off between employers and employees may threaten the work relationship paradigm itself.

Despite the ongoing changes, the position of the parties to the employment relationship remains unequal. The employer, as an entity that runs the business, is entitled to make economic and organizational decisions. Consequently, it organizes the process of work, whereas the employee performs work in conditions of subordination. As a rule, the employee must follow the instructions issued by the employer, even if he/she is expected to be creative. The potential participation of employee representatives does not profoundly change the relationship between the employer and its workers, either. The managerial power is still on the employer's part. Moreover, the employer is the main beneficiary of the gain coming from the activity[16], whereas remuneration does not increase with an improvement in the company's situation. Furthermore, the employment relationship creates a stable link between the parties. As a result, the employee, who is obliged to stay at the employer's disposal, cannot safeguard his or her interests by commencing other activities. From the employee's perspective, the employment relationship still constitutes the main source of income and the loss of remuneration cannot be compensated.

The position of the parties justifies the need for protection and basic stability within the employment relationship. The employer's prerogatives cannot interfere with the protection of health and safety in the strict sense (rest periods, maximum working hours, protection of night workers). Health and safety at the workplace remain the fundamental requirement concerning the organization of the process of work[17]. In a broader perspective it is, however, not enough. The provisions on working time must reflect the nature of the employment relationship

[16] Compare H.-J. Kalb, *Rechtsgrundlage und Reichweite der Betriebsrisikolehre*, Berlin 1977, p. 84.

[17] In some cases, additional protection of health and safety is necessary (e.g. pregnant workers, young workers).

and must guarantee its social utility. Consequently, the employment relationship should guarantee a stable scope of employment (the number of working hours). A decrease in the number of working hours may have very serious consequences for the situation of the employee. Any unilateral amendments by the employer should be, as a rule, excluded. The law must search for equilibrium between flexibility (employer) and stabilization (employee). When it is necessary to reduce the number of working hours (short-time work), the legislation should mitigate the negative consequences for the employee.

5. THE POSITION OF SOCIAL PARTNERS

Another problem is the position of social partners. Without a doubt they have a major role to play in the restructuring of legal regulations regarding working time. The involvement of employee representatives is accepted or even expected[18]. It increases the chance for developing mutually acceptable solutions. The legislation may step back, leaving room for social partners. This tendency respects the autonomy of individuals and their groups and is appropriate in the system of political democracy. As far as the basic (fundamental) guarantees are not affected, the consent of employee representatives may be treated as sufficient legitimization for the flexibilization of working time.

At the same time, social dialogue must be based on equilibrium between employers and employees. Only when this condition is met may the industrial relationships lead to a compromise[19]. However, striking a balance is more and more difficult. The most general reason is the economic crisis, which has restricted the scope for negotiations. In many countries collective bargaining of a sectoral or territorial character has lost its importance. On the other hand, company-level negotiations are connected with specific risks, e.g. leading to the domination of the employer. Moreover, in some countries there is no appropriate representation of employee interests. Trade unions are losing their negotiating power[20]. Theoretically, they could be replaced by elected bodies[21], but their bargaining mandate is not as obvious

[18] The finest example is art. 18 directive 2003/88 which allows dererogations from daily and weekly rests, breaks during working day, protection of night workers and calculation periods by means of collective agreements.

[19] Thanks to equlibrium between social partners collective agreements may improve the position of workers (e.g. F. Gamillscheg, *Kollektives Arbeitsrecht, Band I: Grundlagen, Koalitionsfreiheit, Tarifvertrag, Arbeitskampf und Schlichtung*, München 1997, p. 11).

[20] Among other reasons, this is a consequence of the decrease in the number of trade unions members.

[21] One can observe a growing importance of elected bodies (M. Biagi, M. Tiraboschi, *Forms of Employee Representational Participation*, (in:) R. Blanpain (ed.), *Comparative Labour Law and*

as it is in the case of trade unions. In addition, a stable and strong second channel of representation exists only in some European systems. For instance, the majority of Central and European countries have not established elected representation which could effectively represent employees (also in the absence of trade unions). The need for strong representation is particularly important as regards the amendments which modify the content of the employment relationship.

Moreover, in times of economic crisis, social dialogue requires public support. This applies to both the creation of legal framework for negotiations and the introduction of programs (social plans) that supplement the activity of employers and employees. The latter solution is particularly important when collective agreements are detrimental for employees (e.g. short-time work)[22]. The affected employees should be entitled to appropriate compensation, but social partners are usually too weak to safeguard the necessary level of income. More and more often, the solution is the use of social insurance or special funds that finance subsidies.

6. WORKING HOURS

The limitations on working hours have determined the development of labour law. Nowadays, the number of regular weekly working hours in developed countries seems to be relatively stable. There are, however, significant differences as regards the methods of protection. In some European countries it is based on rest periods and maximum weekly working time only (this group has been extended over the recent years). In other states daily and weekly working hours are still regulated by legislation. The first solution is much more flexible. A great role can be played by social partners. However, over recent years significant changes have occurred also within the second group. There is more room for the extension of daily working hours balanced by the shortening of working time on other days or days off while the average weekly norm is maintained. The legislation usually offers some possibilities to extend working time (to 9, 10 or even 12 hours per day). The process of flexibilization of daily working hours seems to be unavoidable. This flexibilization is achieved by means of collective agreements or even individual employment contracts.

Flexibility is also connected with the fact that the limit on weekly working hours is based on the average, which enables the diversification of workload depending on the employer's needs. The key point is the length of the reference

Industrial Relations in Industrialized Market Economies, Kluwer Law International 2004, p. 466 et seq.).

[22] Such solutions enable, however, the maintanance of workplaces (e.g. B. Hepple, *Flexibility and Security of Employment*, (in:) R. Blanpain, C. Engels (eds.), *Comparative Labour Law and Industrial Relations in Industrialized Market Economies*, Kluwer 1993, p. 262).

(calculating) periods. In the past, the reference periods were relatively short (the basic reference period provided for by the directive 2003/88 should not exceed 4 months). The situation has changed over the recent decades. One of the most important postulates concerning the organization of work is the "annualization" of working hours. It offers more efficient use of working time but may also lead to a serious accumulation of working hours. In majority of European countries longer reference periods (in a legal framework created by the directive) have been allowed. Usually, they are introduced by means of collective agreements[23]. Because of the consequences of this solution, the legislation should safeguard basic protective standards and create a legal framework to guarantee equilibrium between social partners.

Another problem is overtime work which may be particularly needed in times of economic instability. The employer does not have to engage additional workers and consequently may avoid redundancies when the demand for work decreases. Thus, it mitigates the risk connected with running an enterprise. At the same time, additional working hours may contradict other elements of the employment strategy and also create an obstacle to creating new workplaces. As a result, the law should limit the possibility of using overtime work. As a rule, it should be treated as an extraordinary solution connected with additional payments for employees (the ILO standards may be treated as a minimum[24]).

The next point is the accumulation of working hours. In some countries, working hours from various employment relationships are summed up. This solution contributes to the effective protection of employee health and safety. Such a construction protects the employee not only against a single employer but also against the functioning of the labour market. On the other hand, it deeply influences the autonomy of the will of the workers. One should not overlook that in many countries employees – due to the relatively low level of income – are forced to hold several jobs. As a result, strict rules concerning the accumulation of working time may turn out to be detrimental to employees and their families. At the same time, the lack of protective standards can be considered as a threat for the basic assumptions of the system. As a result, the accumulation of working hours seems to be one of the most complicated problems.

Then, the employers are more and more frequently searching for forms of employment in which there is no specific number of working hours. Thanks to this solution the employer adjusts the workload to the current needs mitigating the economic risk[25]. This form of employment can be, however, highly disadvan-

[23] Such exception is provided for by art. 18 directive 2003/88.

[24] Article 6.2 ILO Convention No. 1 and art. 7.4 ILO Convention No. 30 provide that the rate of pay for overtime shall, as a rule, not be less than one and one-quarter times the regular rate.

[25] J. Royot, *Security of Employment and Employability* (in:) R. Blanpain (ed.), *Comparative Labour Law and Industrial Relations in Industrialized Market Economies*, Kluwer Law International 2004, p. 383.

tageous for employees. There are no guarantees concerning the scope of employment and consequently the level of remuneration. Forms of employment without a fixed number of working hours are, *inter alia*, work on call and zero hours contracts. The first solution may be accepted under some additional conditions. The law or collective agreements should determine the minimum number of hours for which the employee is to be paid, the appropriate period of notice and the minimum number of consecutive hours for which the employee may perform his or her duties. It guarantees the minimum level of stabilization. Work on call may be also limited to specific groups of employees to give them access to the labour market[26]. More radical are zero hours contracts, where the employer is absolutely free as regards the amount of work. This construction entirely modifies the paradigm of the employment relationship and deprives the employees of fundamental protective standards. One can raise a question whether it is still an employment relationship?

Finally, over the recent years one can observe a growing popularity of various forms of short-time work[27]. The reduction of working hours entails the reduction in remuneration. It helps to avoid redundancies[28]. Usually the consequences of short-time are mitigated by the public support. As a result, the employees affected by short-time work receive partial compensation. In times of economic crisis the involvement of public funds has significantly increased. It concerns even these countries which, in the past, rejected such solutions as an unacceptable interference with the functioning of the market. It can be justified by the extraordinary nature of obstacles and the need to protect the entire labour market. Short-time work profoundly changes the nature of the employment relationship and the positions of its parties. However, it seems to be unavoidable due to ongoing economic and social processes[29].

7. SCHEDULES OF WORKING TIME

The level of flexibility and efficiency of the organization of work is strictly connected with schedules of working time. On the one hand, the organization of the working hours constitutes one of the employer's prerogatives and may be

[26] See e.g. M. Tiraboschi, *The Italian Labour Market after the Biagi Reform*, "The International Journal of Comparative Labour Law and Industrial Relations" 2005, No. 21, issue 2, p. 189.

[27] This solution has a long history in some European countries. See e.g. W. T. Holzmayer, *Kurzarbeitgeld und Schlechtwettergeld: ein entwicklungsgeschichtlicher Vergleich*, Schäuble 1989 or B. Silhol, *Le chômage partiel*, Paris 1998.

[28] B. Hepple, *Flexibility and Security*..., (in:) R. Blanpain, C. Engels (ed.), *Comparative Labour Law*..., p. 262.

[29] See more V. Glassner, M. Keune, *Crise et politique sociale*…

derived from the idea of subordination. On the other hand, the planning of working time increases the transparency and certainty of the process of work. The employee who knows his or her schedule in advance may organize his or her activity outside the workplace[30]. Consequently, the obligation to plan the process of work is considered to be the minimum requirement adressed to employers. It can be supplemented by the involvment of employee representatives (including elected bodies). The engagement of employee representatives can improve the level of protection of the workers's interests (including their position and special needs). From this perspectective, compulsory negotiations with trade unions or elected bodies are entirely acceptable.

Another problem is regarding standards of planning. They can be partially derived from the international and European law and partially from employment strategies. Firstly, the employee should be informed of his or her schedule of working time in advance. The period of notice should be resonable from the perspective of employee private life. Secondly, the schedule should cover a reasonable period of time. If the reference period is long, schedules can be drafted for shorter periods, but still acceptable for employees (e.g. 1 month). Thirdly, the law should determine the mechanism of changes to the schedules. Such a possibility should exist only in important cases, when the employer's interest prevails over the need to guarantee a stable schedule of work[31].

The legislation and/or collective agreements should not overlook the position of employees with special needs (including familiy duties and various forms of individual development). The law should create an effective mechanism that would enable them to influence their working time schedules. The possible solution is to make an employee's demand binding for the employer unless it is impossible due to organizational reasons.

Going further, one must refer to special forms of the organisation of working time. One of the most important examples are working time accounts that are partially based on the idea of adjusting working hours to the employer's (and sometimes also employee's) changing needs[32]. The law should determine the conditions and mechanism of the functionning of accounts. The protective mechanisms are necessary when the decision to use working hours is made up by the employer. The application of the account must not entail complete freedom in shaping the schedules. Even in this case, the basic requirements concerning planning should apply.

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[30] The organization of working time should be a compromise between the needs of the parties (International Labour Office, *Hours of work*..., pp. 53 and 60).

[31] Compare e.g. F. Marhold, M. Friedrich, *Österreichisches Arbeitsrecht*, Wien–New York 2006, p. 76.

[32] Working time accounts are popular in some European countries, e.g. Austria and Germany. See e.g. P. Hanau, A. Veit, *Das neue Recht der Arbeitszeitkonten: Wertguthaben, Altersteilzeit, Flexikonten*, München 2012.

The most radical form of the organization of working time is the elimination of working time schedules. The employee is provided with tasks and decides freely about their fulfillment. Such a solution may be justified by the nature of employment (e.g. managerial staff). Moreover, it can be advantageous for both parties to the employment relationship. There are, however, two threats. Firstly, the elimination of schedules may lead to an increase in workload. It is necessary to guarantee that the employee will be charged with work that can be performed within a number of hours comparable with those arising from traditional schedules. The elimination of schedules should not automatically exclude overtime work, either. It may still appear if the employee is provided with additional tasks or atypical duties. Secondly, the elimination of the schedule may lead to abuses. Therefore it is very important to guarantee that this solution is applied only in cases justified by the nature of work.

Schedules of working time may be also limited by additional requirements concerning night work and shift work. Minimum conditions in this area are determined by the directive which expressly referred to the ILO's standards. Another problem is the limitation on work on specific days (e.g. the ban on Sunday work). However, the directive 2003/88 does not prohibit Sunday work any more[33] the question on employment on holidays remains disputable.

8. CONCLUSIONS

Over the recent decades working time regulations have been profoundly modified. The main direction of working time development is flexiblizitation. It enables the adaptation of the work process to the changing needs of the employers, which results in an increase in the effectiveness of the employment relationship. The flexibilization is connected, *inter alia*, with balancing working hours, long reference periods, the changing approach to overtime work as well as more flexible schedules of work.

On the other hand, the law must offer a necessary level of protection for workers. This need has been brought to light by the the economic crisis and its influence on the labour market. Flexibilization has its limits. They are determined by the paradigm of the employment relationship (based on the employee's dignity), the need to protect the health and safety of workers, as well as by the main assumptions of the social strategy, including life-long learning and work-life balance policies. Working time regulations must be useful for employers, but at the same time should be adjusted to the conditions of work and the employ-

[33] The prohibition of Sunday work was connected with the legal basis of the directive. See more C. Barnard, *EC Employment Law…*, p. 580.

ee's needs. A very important role in the achievement of this objective may be played by social dialogue, which helps to strike a balance in industrial relationships. However, it is possible only when there is an equilibrium between social partners. Otherwise, the employers may dominate collective negotiations. One of the most important questions for the future is the personal scope of protection.

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Summary

Originally, working time regulations were intended to increase the level of safety in the process of work. As a result, working time regulations were relatively stable and rigid. The traditional organization of working time turned out to be inadequate for circumstances in which work is performed. Over recent decades working time regulations have been profoundly flexiblized. This result has been achieved thanks to various legal instruments such as the extension of daily working time, longer reference periods for weekly working hours or more flexible schedules of working time (e.g. banks or accounts of working hours). However, the flexibilization of working time must confront with numerous limitations. First of all, they arise from fundamental rights and international standards as well as from the standards determined by the European Union. Important criteria of assessment are also European strategies such as work-life balance or life long learning. Finally the question of the paradigm of the employment relationship must be answered. The actual position of the parties thereto does not justify the significant change in the division of risk connected with employment.

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