

LEGAL AND VETERINARY JOURNAL

WORKING TIME FOR EMPLOYEES WITHIN THE EUROPEAN UNION



Mr. L.M. Schelstraete
Active in the fields of company law and equine law. Within the equine law practice, Luc Schelstraete provides services to Dutch yet often also foreign equine businesses, riders, horse owners and equine authorities.

In this edition of Horse International we would like to discuss with our readership the European legislation on working times. In our daily practice we often come across questions from our clients regarding the working time regulations.

INTRODUCTION

Owning and riding horses in an enterprise as such. Horse owners and riders cannot do the job alone. They need staff to help them with the daily care of the horses. They also require an ongoing assistance during the competition. Grooms and other persons engaged or employed by horse owners and/or rider fulfill therefore a very important role in the whole management of the horses. Few of the horse owners or riders however ask themselves what is the legal status of their grooms and other people employed. As taking care of the horse is basically a 24/7 on-going obligation, the question could be asked how much a groom can basically work.

THE EUROPEAN WORKING TIME DIRECTIVE

With regards to the working time we will focus on two legal instruments that have been implemented by the EU. The EU regulated the working times in Directive 2003/88/EC of the European Parliament and of the

Council of 4 November 2003 concerning certain aspects of the organisation of working time ('The European Working Time Directive'). This directive sets out minimum safety and health requirements for the organization of the working time of workers. The member states can apply a stricter regime, if they want to, but in any case the minimum standards of the directive must be implemented into national legislation. In addition, the Directive contains provisions relating to working hours, night work, rest periods, annual leave and rest breaks. The EU regulations on working times also are also influenced by the EU Directive 94/33/EC - young workers of 22 June 1994 on the protection of young people at work. This directive protects the youth from labor that is harmful for their health and development.

TRAVEL TIME IS ALSO WORKING TIME

In the context of this article, we would like to address a recent judgement of the European Court of Justice (the 'ECJ') in case C-266/14 that clearly qualifies what should be understood under the 'working time'. The case was pending between the Federación de Servicios Privados del sindicato Comisiones obreras (CC.OO.) and Tyco Integrated Security SL and Tyco Integrated Fire & Security Corporation Servicios SA (together 'Tyco') concerning Tyco's refusal to consider the time spent by their employees on daily travel between their homes and the premises of the first and last customers designated by their employer ('time spent travelling between home and customers') as 'working time'.

Following a reorganization of its business Tyco closed down its regional offices. Tyco's employees received for this purpose a company car, but the employer took the position that the journey to the customer was fully covered in their own time. The day began in other words only when the employee arrived at the customer. Employees who had to visit a distant established customer made longer hours than prior to the reorganization



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of the business. The Spanish Court asked the ECJ to give insights on the European Working Time.

THE ECJ RULING

The ECJ ruled that the employer was wrong in this case. In the ECJ's view employees are "at the disposal of the employer" from the moment they step into their company car. Travelling in the company car to customers falls within the concept of 'working time' within the meaning of the European Working Time Directive. Undoubtedly, the finding that it as Tyco decision to close down the regional offices played a significant role here. Referring to the working time and the European Working Time Directive must be noted that the ECJ emphasized in its ruling that the fact that the journey time is considered to be working time does not mean that such time has to be paid equally with the 'real' work. On the contrary, the ECJ stated that the employer can decide freely on the compensation for travel time. Concluding, in cases where travel time is involved, it could be fairly that as employees may not work longer than more than 48 hours per week under the European Working Time Directive, they could earn less because the employer can decide

how he/she will pay for the travel time. It is therefore possible that at the end of the day the remuneration of these employees would be actually lower. ■

Piotr M. Wawrzyniak
practicing lawyer at
Schelstraete
Business Lawyers
and European US
ASIAN Equine
Lawyers in
Oisterwijk and
Amsterdam, the
Netherlands.



If you have any questions and/or comments after reading this article, we would be happy to hear from you. You can also contact us for all equine-law related questions or matters. Please contact us via info@europeanequinelawyers.com or by telephone +31-(0)135114420.

