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for the Improvement of
Living and Working Conditions

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Legal and Contractual Limitations to Working-Time in the European Community Member States

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Preface

The theme of working-time, seen here as a set of legal and contractual constraints, is one of the background themes of the Foundation's programme on New Forms of Work and Activity.

Reduction of working-time and greater flexibility of working-time are two poles around which the political debate is taking shape. It was the Foundation's aim in this work to throw light on the enormous complexity of the legal and contractual rules relating to working-time in order to provide a factual background for the sensitive issue of future working-time developments.

The Foundation hopes that this book will be a first step towards the creation of a factual and reliable information base that could possibly become the starting point for a reference system on the development of working-time law and regulations. It is gratifying that such a distinguished group of experts agreed to collaborate with the Foundation and the editors in the creation of this publication.

Clive Purkiss
Director

Eric Verborgh
Deputy Director

European Foundation for the Improvement of Living and Working Conditions, Dublin

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The editors are indebted to a large number of people who over the years have supported the work of the Foundation and have thereby contributed to the genesis of this book.

Foremost, Jean Degimbe, Chairman of the Foundation's Administrative Board from 1978–1987 and all his colleagues on the Board, Clive Purkiss and Eric Verborgh, Director and Deputy Director respectively, who have made this endeavour possible.

Thanks are also due to the many colleagues who have given their support in many stages of the development of the project. They are too numerous to name individually but mention should be made of Christine Gollin who handled all the paperwork and other administrative organisational aspects; Lina Bruggeman who helped in the compilation of the index; Marleen Bringmans and Greta Van Staeyen who typed the manuscript. Invaluable help was received from Mrs. van Oosten-Rosman who performed the re-writing of the contributions of the non-English speaking authors (except for Portugal and Spain).

The writing of a general comparative report is obviously impossible without national reports. A word of sincere thanks goes to all contributors who – overburdened as they all are – were so diligent to write their respective reports within rather short deadlines. They also adhered to the general outline for national reports which is published in an appendix.

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The Netherlands	MAX ROOD
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United Kingdom	BOB HEPPLÉ

Despite the diversity of nationalities and cultural backgrounds of the

ACKNOWLEDGEMENTS

contributors, this book has ended up as a homogeneous whole and is thereby proof of the fact that diversity can be challenging and enriching.

Dublin and Leuven

November 1987

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List of Abbreviations

CEAs	Conditions of Employment Acts 1936–44
CEOE	Confederation of Spanish Employers
CNEL	National Council for Economy and Labour
DA	Danish Employers' Federation
DPR	Decree President Republic
EC	European Communities
EDP	Electronic Data Processing
EEC	European Economic Community
EED	Labour Law Survey (Periodical, Fortnightly)
ERO	Employment Regulation Order
ESAP	National Board of Development Policy (Greece)
FUE	Federated Union of Employers
H(E)A	Holidays (Employees) Act 1977
HOSP.	Hospitalia
HWB	Hours of Work Bill 1984
ICTU	Irish Congress of Trade Unions
I.I.T.W.	International Institute for Temporary Work
I.K.A.	Institute of Social Insurances (IKA)
ILO	International Labour Organization
ITGWU	Irish Transport and General Workers Union
J.C.P.	Journal des Conseils de Prud'hommes
JLCs	Joint Labour Committees
J.T.	Journal des Tribunaux
J.T.T.	Journal des Tribunaux du Travail
LCT	Law Labour Contract (Portugal)
LFF	Law Public Holidays – Vacation (Portugal)
L.O.	Confederation of Danish Trade Unions
LWT	Law Working-time (Portugal)
MQA	Mines and Quarries Act 1965
NGCC	National General Collective Contracts
OAED	State Employment Office (Greece)
OECD	Organization for Economic Cooperation and Development
OR.	Oriëntatie
PYR(E)A	Protection of Young Persons (Employment) Act 1977
R.D.	Royal Decree
R.D.P.	Revue de Droit Pratique
Rev.Trav.	Revue du Travail
R.P.D.B.	Receuil Pratique de Droit Belge
R.S.R.	Reeks Sociaal Recht
R.W.	Rechtskundig Weekblad

S(CE)As	Shops (Conditions of Employment) Acts 1936–44
Soc.Kron.	Sociale Kronieken
T.S.R.	Tijdschrift voor Sociaal Recht
T.U.C.	Trade Union Congress
UK	United Kingdom
UNICE	Union des Industries de la Communauté Européenne
V.B.O.	Verbond van Belgische Ondernemingen
W.S.I.	Wirtschafts- und Sozialwissenschaftliches Institut of the German Confederation of Trade Unions (DGB)

Introduction: Working-Time as a Research Topic in the Foundation's Programme

Eberhard Köhler

This book is based on work sponsored by the European Foundation for the Improvement of Living and Working Conditions.

The Foundation is an autonomous Community Body established by a Regulation of the Council of Ministers of the European Communities which came into force on 26 May 1987.

The Foundation was created in recognition of the fact that problems associated with improving living and working conditions were growing more numerous and complex, and Community action to resolve them should be built on scientifically-based information, and the social partners should be associated with such action.

Aims of the Foundation

The Foundation is dedicated to assisting in the effort to improve living and working conditions of the citizens of the Member States of the European Community. This is reflected in its charter where five areas of concern are enumerated:

- man at work
- the organisation of work, in particular job design
- problems peculiar to certain categories of workers
- long-term aspects of improvement of the environment
- the distribution of human activities in space and in time.

The subject matter of this book 'Working-Time' closely relates to two of these basic areas: 'Man at Work' and 'The Distribution of Human Activities in Space and in Time.'

The Regulation which established the Foundation directed it to work towards improving living and working conditions in the medium and long term, to take account of Community policies and to provide the Community Institutions with relevant information. Suggestions on how the Foundation might achieve its aims are offered in the Regulation and include the

organisation of conferences and seminars, the conclusion of research contracts, and the dissemination of information.

Creation of Knowledge through Research

Within the provisions of its regulation, plans for the Foundation's activities are drawn up in a series of published 4-year programmes on which annual work programmes are then based. The knowledge which the Foundation disseminates is largely self-created through sponsored research projects, the results of which are further analysed and evaluated by the Foundation's constituent parties, i.e. both sides of industry, the governments of the Member States of the Community and the Institutions of the Community itself, primarily the Commission, the European Parliament and the Economic and Social Committee.

Within the framework of the subject matter of this book all these parties were involved in the design, implementation and evaluation of the material. To this end, a meeting was convened in September 1986 at Fontainebleau, where the provisional draft of the general report was discussed. These discussions proved very rewarding and helped to achieve a better understanding of the issues and trends in working-time, over and beyond national and political boundaries. The re-drafted general report was discussed again at the seat of the Foundation in Dublin in September 1987, when representatives of the social partners, the European Community institutions, national governments, the Council of Europe, the International Labour Organisation (ILO) and other experts came together for an international seminar on Evolution in Labour Law. Again, these discussions were very useful.

The result of these deliberations was subsequently incorporated into the present version of the material as it is presented in this book. Despite these concerted efforts, the contents of this publication do not necessarily reflect either the position or views of the Foundation.

New Forms of Work and Activity as a Research Programme of the Foundation

The Foundation's interest in this field is defined in its third 4-year programme 1985–1988: 'Life at work is increasingly being dominated by the pace of change brought about by developments in new technology, their introduction and their implications. Medium and long term activities will be influenced by the latest technologies, particularly by their effect on:

- the structure of industry, private services and the public sector
- changes in work
- changes in industrial relations.

Research is being undertaken to define the nature of the changes brought about by new technology and to assess their effects on living and working conditions.'

Through its work programme, the Foundation wants to assist in the understanding of how our societies and economies manage to adjust to new forms of work organisation, to changes in demand for products and services, to different forms of behaviour and continuous technological development. These issues, together with the frighteningly high unemployment rates, force us to take a new look at the labour market and to re-define work. For many people, the term 'work' has lost its original meaning of full-time gainful employment.

In 1985, the Foundation initiated research work to investigate the ways in which the labour market reacts to these changed conditions and the new forms of work which are attracting growing attention and to evaluate their social and economic implications.

The Foundation is looking at this subject from different angles in an attempt to gain a more comprehensive view of the individual factors that characterise this trend. The research carried out to date covers the following areas:

- a. external and internal labour markets and employment flexibility;
- b. development of job-sharing;
- c. development of telework;
- d. impact on families and social organisation;
- e. psychological impact of new forms of work and activity;
- f. issues in labour law and social security legislation;
- g. work organisation in co-operative undertakings;
- h. changing patterns of time use.

Some of these developments are characterised by changes in the spatial aspect of workers' living and/or working conditions, such as homework or telework. Others relate more to the temporal aspect of life inside and outside the work-place. In this latter category the research on legal and contractual limitations to working-time – the subject matter of this book – is rooted. Only through a thorough knowledge of existing rules and regulations can we assess the extent and direction of change which is occurring on all fronts, be it the issue of reduction of working-time, primarily supported by the trade unions, or be it the wish to introduce greater flexibility in working-time, an aim primarily supported by employers and industry.

Fundamental changes are also occurring outside the formal labour market. The more difficult it is to find paid work, the more people turn to other forms of activity which do not normally have the same status, such as community work, family welfare work or 'own-initiative' environmental work, to name but a few. In a society in which the type of work has for a long time determined social status, we must re-evaluate these types of activity.

The results of the working-time research are presented in this book. The general, comparative report documents the enormous variety of rules and regulations across the Member States of the Community which are covered by the book. Following this, individual reports from various countries – in alphabetical order of country – are presented for those readers who need to go into more detail on any one of the issues as they relate to a specific body of law. A subject index helps to further facilitate a cross-national comparative access to the data contained in this book.

The subject matter as such is basically factual and non-controversial. None the less, the underlying political interests make this subject matter highly sensitive. If this volume could contribute to a rational approach to the discussion of future developments in working-time, the Foundation's and the individual contributors' intentions and efforts would be more than fully rewarded.

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