

Working Time In Europe - How Is It Defined And Is There A Growing Trend To Reduce It?

Employment partner, Inês Reis, of global employment law firm alliance Ius Laboris' Portuguese member firm pbb, examines European limited working hour's legislation and the potential impact on cross-border project management.

When considering working hours in Europe, the 40-hour working week immediately springs to mind, be it either a fixed or an average 40 hour rule. Some countries impose working hour limitations to be met every week, and others allow it to be spread over a longer period – months, in the case of Portugal, or even the year, which is the case in Spain. There are, however, some notable exceptions; France with the 35 hour working week and, at the opposite end of the spectrum the UK, with its 48 hour working week rule and a pro-employer approach, where workers may – and are expected to – opt out from it.

The 40 hour weekly limit in Iberian countries has been assumed for years, and its reduction is probably not the first issue that comes to mind if current trends and initiatives in labour and HR matters are to be considered.

In fact, although collective bargaining agreements in some countries such as Portugal and Sweden stipulate lower limits for working weeks, for example 37.5 hours or even 35 hours, the general rule in the majority of European countries is still the 40 hour working week.

With the advent of the internet and the introduction of mobile tablets, smart phones and many other ways of remote connection to the world, as well as to the workplace, the 40 hour working week faces some important challenges - and not all are aimed at reducing working time duration.

Most multi-national corporations provide employees with a range of tools and devices and support the related costs, to ensure their staff are fully equipped to respond to work matters at any time. Local companies do not deviate that much from a similar thinking.

Workers themselves tend to be online more and more frequently and there are

those who are always connected, even at weekends or during vacation.

Whether this has really caused an increase on the actual number of hours worked is still questionable, however, the result is that worker availability is different now than previously and their employers may also expect them to be so.

This has already caused some reaction from trade unions and other employee representative bodies, claiming that such availability is excessive and endangers health and safety, and are thus trying to introduce limits, invoking work-life reasons, productivity-linked motives and the protection of workers' mental health among others.

For example, in Sweden, an experiment to reduce working time to 30 hours per week has been undertaken by the city council staff in Gothenburg. The workers, although on a reduced schedule of 6 hours per day, will be receiving full pay. The results of such an experiment have not yet been made public, and there is no known plan to permanently change the time limit per week, although the Swedish Left Party has been debating the issue of reduced working hours for many years.

There are further European initiatives such as the new French Collective Bargaining Agreement that has banned the use of 'professional electronic devices' for workers in the digital and consultancy sectors - including the French offices of Google, Facebook, Deloitte and PwC – during the workers' rest time. The German labour ministry also issued guidelines determining that its staff should not be penalised for switching off their mobiles or failing to pick up messages out of working hours. This initiative has also echoed across some major corporations, such as BMW or Volkswagen, the latter having stopped forwarding emails to its staff from company servers as of half an hour after the end of the working day.

Some other corporations, driven by the concern for health and safety of their staff, and at the same time the impact on company's figures, have drawn rules on their expectation regarding employees

answering or checking work emails or messages while off-duty.

The difference in mind-set between Northern and Southern European countries is a feature that should not be ignored: in Southern Europe, and especially in the Iberian countries, this can be a tricky matter, since the mind-set of local management seldom tends to link productivity to time spent at the workplace and to staff being available 24-7. This mind-set extends even to when matters are not urgent, and could probably wait until the following day or after the weekend.

Is there a rule that could effectively be applied Europe-wide regarding working time limits, and could a "burnout border" be set for everyone? Or, on the contrary, should we admit that each one of us has our own limits, as well as preferences to what relates to working a given number of hours per day, or being available at all times, but without being stuck at a desk or a fixed workplace?

It seems clear that no universal rule will ever be applicable, and that depending on the areas of activity, different rules will always apply. Nonetheless, in our opinion, this issue is also intimately linked to an employee's notion of responsibility as well as common-sense - both from the person asking for the work and the one performing it.

In France, for example, management positions may choose the way they wish to organise their working time, provided that they guarantee a set number of days (circa 218) over a given year – the so-called "forfait-jours".

The deep crisis that struck both Spain and Portugal, and from which both countries are trying to resurface, has also created in the minds of people a sense of the need for job security, whatever it takes to secure it, even if it means being online during free time.

For instance, the UK, which has passed the economic crisis with much lighter consequences than Portugal or Spain, has resisted approving laws that would abandon the 48 hour opt out mentioned

earlier. This is also very illustrative of the different ways of facing, not only working time regulations, but work relationships in general, that the UK has when compared to wider continental Europe.

This more economic approach by the UK, in contrast to the more social approach of continental Europe, may be one of the reasons why weekly working hours are longer. With the possibility of being even longer (by exercising the opt-out) and also why there is no short-term initiative to cut their duration.

Working time policies

Although multi-national corporations are often keen on having global policies, the introduction in Europe of a global working time policy could prove to be challenging.

The differences in daily and weekly working time durations in various EU countries, alongside the different ways in which some work performance is considered overtime need to be taken into consideration. Coupled with differing rules when calculating payment, or when

granting compensatory time-off, the impossibility of unilaterally implementing such a policy, would need to be considered by corporations seeking to manage their employees' working time in Europe.

Even in the case where a global policy containing only general guidelines and principles may exist, it is advisable to take a local approach to working time regulation. Within a multi-national corporation, where several jurisdictions may be affected, the fact that working time regulations are usually mandatory and ruled by local law, ensuring compliance with local rules would be highly recommended.

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