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# CLR News

## WORKING TIME

**CLR**

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# Contents

<b>Note from the Editors</b> .....	4
<b>Subject articles:</b> .....	6
Gerhard Syben: <i>Regulation and reality of working time in Germany</i> .....	6
Linda Clarke: <i>The changing significance of working time in the British construction industry</i> .....	12
Benoit Brabant: <i>Collective cuts in working time: what does the Belgian Trade Union movement think?</i> .....	19
Chris Kelley: <i>A matter of time: Changing working hours in Swiss construction</i> .....	22
Wiebke Warneck: <i>The EU-Working Time Directive</i> .....	32
<b>Discussion:</b> .....	35
Jörn Janssen: <i>What is working time?</i> .....	35
<b>Review Essay:</b> .....	38
Jörn Janssen: Luke Sinwell and Siphwe Mbatha (2016) <i>The Spirit of Marikana</i> .....	38
<b>Reviews:</b> .....	42
Rolf Gehring: Dublin Foundation, <i>Working Time Realities in the 21st Century: Working Time Realities and its Regulation</i> .....	42
Ernst-Ludwig Laux: <i>WSI Report (2014) Arbeitszeiten in Deutschland</i> .....	46
Ernst-Ludwig Laux: Reiner Hoffmann und Claudia Bogedan, Hg. (2015) <i>Arbeit der Zukunft</i> .....	48

Gerhard Syben

## **REGULATION AND REALITY OF WORKING TIME IN GERMANY - the Example of Branches represented by IG Bauen-Agrar-Umwelt**

In Germany in recent years there has been a new debate on working time (cf. Seifert 2014). It was provoked by new union initiatives as well as by new proposals made by the political actors to reduce and reorganise working time. The new debate at the same time represents a remarkable shift in key issues.

As a consequence of the industrial dispute in the 1980s about the request for a 35-hour-week in the metal working and electrical industry, working time was intensively discussed. After a solution was found and widely accepted at enterprise as well as shop-floor-level, the issue was no longer a subject of public interest. However, whereas in the 1980s the redistribution of employment and the creation of jobs through a reduction in individual working hours as well as the forms and consequences of employers' demands for flexibility were at the centre of the discussion, today it is the time sovereignty of employees and work life balance (cf. Seifert 2014). A new touch to the discussion is also that the compatibility of job and family is no longer seen as a problem for women only, but as well as one for men. Young fathers in particular increasingly claim more time for their children and this is also true for the construction sector (cf. Syben 2014).

At the same time the framework for the discussion of working time has changed. Real working hours are more and more often increasing above the level agreed in collective agreements, in particular for well qualified male employees. Also part-time jobs are increasing and are mainly held by women. Many employees are unsatisfied with their real working time: some would like to work shorter, while others would like to have more working hours (cf. Seifert et al.

2016). Moreover – due to demographic reasons – it is proposed that everybody should work until 67 or 70 years of age (cf. Absenger et al. 2014).

However, until now there has been no systematic information on working time in those industries organised in the German construction workers' union IG Bauen-Agrar-Umwelt (IG BAU)<sup>2</sup>. Thus, the study presented here is the first attempt to analyse collective agreements on working time and to survey its reality in these industries. The study was undertaken in spring 2015. Included were 21 collective agreements in 14 industries concluded by IG BAU. To learn about the reality of working time, an online-inquiry among *Betriebsräten* (works councils) of the industries named was undertaken, in which *Betriebsräte* from 197 enterprises took part. A sufficient number of answers were received from enterprises from the construction industry, construction material industry and cleaning services. The report on the study was published by IG Bauen-Agrar-Umwelt (Syben 2015).<sup>2</sup>

### **Despite particularities, general social norms of German society are valid**

Working time regulation in most industries represented by IG BAU has to take into consideration particularities that are not found in other industries (such as one-off-production, seasonal and weather dependency, project-type orders, etc.). Furthermore, these industries are dominated by small enterprises and a low degree of unionisation and bodies representing workers in the work place. Nevertheless, the social partners in these industries have agreed to let employees participate in social progress concerning work and working time. Collective agreements in these industries represent the same standards common in the economy in

1. These are besides the construction industry, the construction material industries, building and industrial services and the „green industries“, like agriculture, horticulture and forestry.
2. See also <http://www.baq-bremen.de/de/publikationen.html>. This report is until now only available in German.

## Subject articles

general – even if they differ in detail and consider the interests of employees differently. This is true for the three main aspects of working time, too: length (per day, per week), position (during the day), and allocation (during the year). Most collective agreements analysed for the study stipulate a week of 39 hours, to be executed according to 8h from Monday to Thursday and 7h on Friday. In some industries the working time agreed differs between East and West Germany, in others between winter and summer. Some collective agreements determine a minimum working time duration per week in order to guarantee a certain level of wages even in times of low activity (whether due to weather or market conditions).

Due to the nature of the industries, most collective agreements contain various forms of regulation concerning flexibility. Longer or shorter working hours on a day or in a week can be balanced inside a fortnight, a month's or a year. In most enterprises „working time accounts“ are used to monitor flexible working time. In most cases, limits are agreed for maximum overtime (mainly 150h) and maximum “under-time” (mainly 30h).

In all cases, the establishment of working time flexibility has been bound to stabilisation of payment: Despite unsteady working hours during the year, the monthly wage paid is always the same.

However, the empirical survey showed that the reality of working time in the industries named differs widely from what was agreed in collective agreements.

### **Long working hours, work outside regular working hours and flexibility have become the norm**

In the construction industry the collective agreement determines a 41-hour-week in summer and 38-hour-week in winter. In reality, 41 hours and more per week are practised by more than 80 per cent of enterprises in summer and by

nearly one half in winter time. In collective agreements in all the industries looked at here, regular working time is determined as from Monday to Friday. In reality, no work at the weekend is stated for less than one third of the enterprises included in the study in the construction industry and in the construction material industry, and for not a single enterprise in the cleaning services. However, in half of the enterprises with work at the weekend, this seldom happens and involves only a minority of the workforce, whereas, in the other half, work in one day of the weekend is often or regularly the case.

The main forms of flexibility of working time practised in the enterprises taking part in the survey are on the one hand a short-term balancing of time (i.e. over one or two weeks) in order to make up for delays due to project or weather conditions. On the other hand, it is a balancing of working time within the frame of one year, controlled by a working-time-account, as practised by nearly 40% of all firms who participated in the survey. In most cases, the specification, agreed in the collective agreements is used and a maximum of 150 hours overtime work and a maximum of 30 hours under-time-work is practised. Compensation for overtime-work is mainly given by leisure time rather than by additional payment. In 60% of the enterprises participating in this survey, employees have the choice between these two possibilities, in nearly 36%, the use for leisure time is determined. In fact, leisure time is not be used only to balance a deficit of working hours, but also for personal needs, including additional holidays. However, a holiday longer than one month was rarely reported. The control of the working-time-account (who decides on the "asset") in more than one half of enterprises is undertaken by consensus between employee and employer superiors respectively. In one quarter, it is the employee only, as reported by *Betriebsräten* answering the questionnaire for this survey.

## Subject articles

To take personal time needs of employees into consideration today is an aspect of up-to-date human resources management (HRM). Not at least, it has become more and more necessary in order to be able to recruit qualified personal. It is interesting that enterprises do not procure agreements with unions or *Betriebsräten*, which would oblige themselves to offer leisure time for personal needs to employees, but in reality agree to make concessions to them in case of a need to care for children or elderly relatives, in particular for single parents, and, not at least, for participation in further education and training. *Betriebsräte* who answered this question nevertheless remarked that these concessions are quite often made arbitrarily and seem to be a measure of good conduct.

In general, working time policy at the level of the enterprise is occasionally or regularly an item to be discussed between employer and *Betriebsräten*. More the 83% of *Betriebsräte* responding said that this is occasionally or regularly an item to talk about between them and the employer.

### **Impact of the use of information and communication technologies**

The use of information and communication technology is sometimes said to be at the origin of the elimination of the boundaries between working time and leisure time, to the detriment of the latter. However, extensive working time around the clock through using e-mails, internet, and mobile phones was reported by only a smaller number of *Betriebsräten*. But, obviously there is a remarkable difference between the nature of jobs: availability 24/24 and 7/7 seems to be linked, as well as restricted, to two kinds of jobs. One is standby services in cases of emergency; the other is for employees in medium and higher ranks; it was not reported for construction workers on site.

Some of the *Betriebsräte* who answered this question added an interesting remark. From their point of view, some colleagues try to be available to meet the requirements of the job because they feel that this will attract particular honourable mention from the employer.

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