



Working conditions

# Rest breaks from work: Overview of regulations, research and practice





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## Country codes EU28

AT	Austria	FI	Finland	NL	Netherlands
BE	Belgium	FR	France	PL	Poland
BG	Bulgaria	HR	Croatia	PT	Portugal
CY	Cyprus	HU	Hungary	RO	Romania
CZ	Czechia	IE	Ireland	SE	Sweden
DE	Germany	IT	Italy	SI	Slovenia
DK	Denmark	LT	Lithuania	SK	Slovakia
EE	Estonia	LU	Luxembourg	UK	United Kingdom
EL	Greece	LV	Latvia		
ES	Spain	MT	Malta		

# Introduction

It is generally acknowledged that all types of rest from work, including breaks during the working day, are crucial for workers' health and well-being. If structured appropriately, they can have positive effects on workers' health, safety, performance and productivity in the workplace (ILO, 2016). The EU Charter of Fundamental Rights sets out workers' rights in terms of minimum periods of daily and weekly rest (Paragraph 31(2)). Directive 2003/88/EC concerning certain aspects of the organisation of working time (also known as the Working Time Directive) stipulates that:

*Member States shall take the measures necessary to ensure that, where the working day is longer than six hours, every worker is entitled to a rest break, the details of which, including duration and the terms on which it is granted, shall be laid down in collective agreements or agreements between the two sides of industry or, failing that, by national legislation.*

(Council of the European Union, 1993)

The Working Time Directive also sets out the following definitions:

- 'Rest period' means any period that is not working time.
- 'Working time' means any period during which the worker is working, at the employer's disposal and carrying out their activity or duties, in accordance with national laws and/or practice.

The European Commission's report on the implementation by Member States of the Working Time Directive indicates that, in general, the provision on breaks has been transposed satisfactorily into the national legislation. In the absence of provisions established under collective agreements or between employer and worker representatives, most Member States set out minimum provisions for the length and timing of a rest break during the working day (European Commission, 2017, p. 6).

The objective of this report is threefold:

- to map how 'rest breaks' are regulated in the EU Member States and Norway (including national legislation and relevant collective agreements) in terms of duration, timing and other important conditions
- to identify and describe the special conditions pertaining to breaks from work for certain groups of workers and certain types of jobs or sectors (for example, extended rest breaks for heavy physical work or exemption for law enforcement staff)
- to summarise recent research, court cases and/or public debates related to rest breaks from work and their association with workers' health, well-being and performance/productivity in the workplace

The data used for this report are mostly drawn from information provided by the Network of Eurofound Correspondents on the basis of a common questionnaire distributed to correspondents from all EU Member States and Norway. The questionnaire addressed the aspects detailed in the bullet points above. The replies from each country were received in October 2018 and then checked and used in the drafting of the report.





# 1 National regulations on rest breaks

The main objective of this study is to map the regulation of rest breaks in the EU Member States and Norway, including national legislation and collective agreements. The report first examines national legislation on the subject, as this establishes the basic minimum terms regarding rest breaks that apply to employees not covered by collective agreements. For practical reasons, it is not possible to undertake a comprehensive review of how the topic is covered by collective agreements across the EU. Instead, a few select examples can serve to illustrate how the issue is covered in collective agreements. In both situations, the elements that have been considered are the following: how rest breaks are defined, their duration and timing, and whether they are considered to be working time and, therefore, remunerated.

## National legislation

### Definition and purpose

The majority of EU countries do not have a specific definition of breaks from work. In most cases, and similar to the Working Time Directive, 'breaks' are seen in terms of working time or are simply defined as 'interruptions' of work. However, in some Member States, even if legislation does not define a 'rest break', it at least specifies what breaks are meant for or can be used for. The Working Time Act in **Austria**, for example, states that during the rest break the employee must be able to dispose of their time in whatever way they wish or, in other words, it must be genuine leisure time or rest time from work. **Finland's** Working Hours Act specifically mentions that during the break the employee is free to leave the workplace.

The **Italian** law covering breaks from work is comprehensive and defines them as any moment of inactivity within the entire daily working period for the purposes of restoring a worker's 'psychophysical energies', consuming a meal or as a relief from monotonous and repetitive tasks. **Luxembourg** labour law declares that the aim of rest breaks is the protection and promotion of the health and safety of workers, and for that reason the duration of the rest period must be adapted to the nature of the occupation.

In **Hungary**, where rest breaks are a constitutional right (enshrined in Hungary's Fundamental Law), the Labour Code establishes that during the break 'work must be interrupted' and mentions specific purposes: 'during daily work the employee is entitled to a rest break for the purposes of resting, eating or meeting other personal needs'. In his study of European rest time legislation, Fodor (2016) argues that time spent on call and while changing into working clothes or uniforms should be included in the definition of working time, yet the Hungarian legislation excludes it. This stems from the fact that the boundary between work and rest is unclear in relation to the Working Time Directive. To illustrate the dilemma, Laki et al (2013) report that railway employees have difficulty taking rest breaks when the hours comprising their working day are organised on a continuous or uninterrupted schedule; breaks are adjusted according to the train timetable, making it difficult to respect the legislation. Moreover, as rest breaks are not considered part of working time, employees should really leave the premises, but that would mean that they would not be available when needed.

### Duration

The Working Time Directive does not specify the precise duration of breaks, instead leaving it to sectoral agreements or, failing that, to national legislation. Most Member State legislation establishes a minimum duration for breaks from work ranging from 10 minutes in **Italy** to 60 minutes in **Finland** and **Portugal**. Some countries have a minimum of 15 minutes, others have a minimum of 20 minutes. The largest group of countries consider 30 minutes to be the minimum duration of rest breaks from work during the working day (see Table 1). In **Finland**, the law stipulates a rest break of at least one hour if daily working hours exceed six hours, but a shorter rest break of 30 minutes can be agreed between an employer and an employee and this is then usually regarded as the minimum. In **Ireland**, the law requires a 15-minute break after a work period of four hours and 30 minutes, whereas a 30-minute break is required when more than six hours have been worked, which may include the first break.

**Table 1: Legal minimum duration of rest breaks, EU and Norway**

Country	Minimum duration (minutes)
Italy	10
Belgium, Cyprus, Greece, Malta, Netherlands, Poland, Spain	15
France, Hungary, United Kingdom	20
Austria, Bulgaria, Croatia, Czechia, Estonia, Germany, Ireland*, Latvia, Lithuania, Norway, Slovakia, Slovenia, Sweden	30
Finland**, Portugal	60

**Notes:** \*15 minutes when more than four hours and 30 minutes are worked and 30 minutes when working time exceeds six hours; \*\* a shorter break (30 minutes) can be agreed between employer and employee.

In Denmark and Romania, the length of breaks is not set in legislation. In **Denmark**, the duration of breaks should be detailed in the rules in force at the workplace. In **Romania**, legislation states that the length of breaks to which workers are entitled must be set in the relevant collective labour agreements or in the rules of procedure at the workplace. In these cases, employers are clearly given the power and responsibility to establish the conditions for the breaks while respecting the provisions in the legislation and collective agreements.

Whether in statutory legislation or collective agreements, the majority of countries do not mention any limit on the maximum length of rest breaks; it is assumed that any preference beyond legislation or collective agreements is made at company level and laid down in internal regulations.

### Timing

Another very important aspect of the conditions under which employees can avail of the right to breaks from work is their timing, or, in other words, when the breaks can be taken. Again, in most countries, these conditions are left to the details of collective agreements or the company's internal regulations. However, existing legislation in many Member States also establishes some basic rules regarding the timing of rest breaks. For example, in many cases, legislation states that breaks cannot be taken at the start or end of the working day. In addition, many national provisions allow for the minimum break to be split into two or more periods of time. For example, a 30-minute minimum break in **Austria** must be taken after six consecutive hours of work at the latest but, under certain circumstances (in the interests of the employee or the company), the 30 minutes can be divided into two 15-minute breaks or three 10-minute breaks. In **Czechia**, a 30-minute break can also be split into shorter periods, one of which must last at least 15 minutes. According to the Labour Code in **France**, the 20-minute minimum break cannot be split.

### Working time vs rest time

Across the EU, rest breaks are not treated equally in terms of being counted as working time and therefore whether they are paid. In general, in the majority of Member States, rest breaks are not viewed as actual working time and are therefore not paid. However, in many countries, rest breaks are treated differently in collective agreements or individual contracts of employment. In **Lithuania**, for example, 'physiological breaks' are considered as working time and are paid, while lunch breaks are only considered to be working time and are paid if the workers cannot leave the workplace. In **Norway**, rest breaks are considered to be working time and are paid if the employee cannot leave work and there is no suitable break room available.

In general, rest breaks are considered as working time and are paid in **Croatia, Poland, Portugal, Slovenia and Spain**. To illustrate, the Portuguese Labour Code defines working time as 'any period during which the employee performs their activity or continues to be bound by the obligation of performing functions, including legally established breaks – namely the satisfaction of workers' urgent personal needs or with the employer's consent – and meal breaks where the employee has to stay in the usual work space or close to it'. If the employee wishes to extend the maximum time allowed for a break, any additional time will then not be counted as working time and will not be paid. In **Austria** and **Denmark**, rest breaks are considered to be working time and are paid in the public sector but not in the private sector. In **Luxembourg**, the implementation of rest breaks is subject to the opinion of the Inspectorate of Labour and Mines before being included in collective agreements. As a result, rest breaks may or not be considered as working time and/or paid.

Other types of break may also be included as working time. In **Spain**, the 'common rest breaks' of 15 minutes are considered to be working time (and are paid), as distinct from the lunch break (which is not). Likewise, **Swedish** legislation distinguishes between breaks for lunch and pauses (i.e. short breaks for coffee) and stipulates that pauses, unlike breaks, are included in working time and are paid.

## Rest breaks in collective agreements

Given the impossibility of collating all existing collective agreements including clauses on rest breaks from work, members of the Network of Eurofound Correspondents were asked to provide up to three examples of how collective agreements determine the conditions under which rest breaks should be taken in their countries. In this section, some of these examples are presented.

Overall, in line with national legislation, longer rest breaks (e.g. meal breaks) are usually not considered as working time and are not paid, while shorter breaks (e.g. pauses for coffee) are. Also, timing is not always specified in agreements; usually, this is left to internal company rules or to workers' immediate supervisors.

When comparing the provision of rest breaks as laid down in national legislation and in collective agreements (sectoral or company based), there does not seem to be any significant difference overall. Some sectors, such as chemicals (**Italy**), passenger transport (**Estonia**) and construction (**France, Malta**) provide longer *minimum* rest break durations. In those sectors, the nature of the work, especially if considered repetitive or arduous, will determine the length of the break to which workers are entitled. In **France**, for example, workers in the construction sector performing arduous work benefit from one or more daily breaks equal to 10% of the arduous working time. Such arrangements are fixed in consultation with employee representatives and thus may vary by individual company-level agreements. In **Germany**, the collective agreement of the metal and electrical industry (IG Metall Nord-Wuerttemberg/Nord-Baden) defines rest breaks as relaxation time (i.e. to redress work-based tiredness) and time for individual needs. As a preventive measure within occupational safety and health, five minutes' break is recommended for every hour of short-cycle manual work and for testing and controlling tasks that require sustained attention. Time for individual needs translates into 5% of an hour (three minutes), to be taken as the worker wishes. In the steel sector in **Poland**, workers are allocated 30 minutes for lunch in addition to the statutory break of 15 minutes provided in labour legislation.

### Is rest working time or not?

Rest breaks may also be considered as working time and paid depending on the category of staff, the work patterns or the sector (as is the case in **Bulgaria** with BDZ Freight Services in the railway sector). In **Denmark**, for example, the norm is that rest breaks are not paid in the private sector but are paid in the public sector, although in this case the employee remains at the disposal of their employer during the break.

The duration of the break may also differ among categories of staff within the same sector: in **Cyprus**, the collective agreement concluded among the dairy producer Charalambides Christis, trade unions and employer organisations includes a break of 20 minutes for white-collar and 30 minutes for blue-collar employees.

Austria, Bulgaria, Cyprus, Denmark, Germany and Luxembourg have not yet legislated whether rest breaks should be considered working time and paid. In these countries, paid and unpaid time at work is defined in collective agreements. In **Austria**, compared to collective agreements, work agreements negotiated at individual company level are of more significance when it comes to tailor-made regulations that define rest breaks. Scheduled rest break arrangements are particularly common in businesses whose staff work in shifts.

In the construction sector in **Finland**, half of the collective agreements define rest breaks as being part of working time; a similar situation exists in the healthcare sectors in both **Hungary** and **Lithuania**. In contrast, in most collective agreements in the **French** retail sector rest breaks are not considered part of working time and are therefore not remunerated.

Overall, the data collected show that entitlement to rest breaks detailed in collective agreements are either very similar to national legislation or offer (slightly) more favourable conditions to employees, either in terms of minimum working hours needed for a break and/or in terms of being considered working time and remunerated.

For example, in **Luxembourg**, the Labour Law provides for rest breaks with the specific aim of promoting the health and safety of workers. It only legislates on the requirement for workers to have either a paid or an unpaid break after six hours' work. The collective agreement in force for companies employing security and safety services staff circumvents the fact that when it is not possible to attribute a non-paid break to an employee for reasons of work organisation, the employee benefits from 'standby time' (*temps de repos veillant*). However, standby time is paid as if it was a working period on the understanding that the employee is required to remain at work, is not allowed to sleep and must agree to work if required during that period. Another example is the collective agreement in public transport in the **Netherlands**: as rest breaks are not considered part of working time, they are in principle also not paid by the employer. The employer must ensure, however, that the areas designated for such breaks are fully furnished and equipped. Employees also receive a small allowance to purchase coffee or tea outside of those areas if they take their break elsewhere during a shift.



## 2 Conditions for specific groups of workers

Member State legislation on rest breaks from work also contains special conditions for groups of workers with certain characteristics, working in specific sectors or in particular circumstances. This chapter presents an overview of the conditions in place for pregnant women and breastfeeding mothers, young workers, specific sectors, workers using display screens and arduous working conditions.

### Pregnant women and breastfeeding mothers

Some EU Member States ratified the ILO Maternity Protection Convention 2000 (No. 183) which entitles women to special rights, including Article 10 which is dedicated to breastfeeding mothers. It establishes that:

- 1. A woman shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.*
- 2. The period during which nursing breaks or the reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the procedures for the reduction of daily hours of work shall be determined by national law and practice. These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.*

Indeed, in a considerable number of Member States, female workers are entitled to special conditions regarding breaks from work if they are expecting a child or breastfeeding. Here are some examples of the special provisions for those workers.

In **Austria**, expectant and breastfeeding mothers are to be granted the appropriate conditions to ensure adequate rest at the workplace (Mother Protection Act/ *Mutterschutzgesetz*, Section 8a). For the purpose of breastfeeding the baby, breastfeeding mothers are (on request) granted a period of 45 minutes when the daily working time exceeds four hours and 30 minutes and two periods of 45 minutes each when the daily working time exceeds eight hours. These time periods count towards working hours and thus are paid.

In **Belgium**, an employee has the right to breastfeed her child during the working day or to express or pump milk. The right to breastfeeding breaks can apply up to nine months after the birth of the child. A breastfeeding break is of 30 minutes duration. Employees who work less than seven hours and 30 minutes in a working day

are entitled to one break. Employees who work over seven hours and 30 minutes in a working day are entitled to two breaks (taken either as one or two breaks) and the employee must agree with the employer when the breaks are to be taken. The breastfeeding pause is seen as an interruption of work and is not paid by the employer. Employees are, however, entitled to a reimbursement from health insurance which amounts to 82% of their last gross salary. Employees exercising their right to breastfeeding breaks are also entitled to protection against dismissal.

In **Cyprus**, the Protection of Maternity Law 100(I)/1997 provides for the protection of breastfeeding women and/or those with increased care responsibilities due to maternity for a period of nine months after birth. Mothers in this case have the right to start work one hour later, finish work one hour earlier or take an hour's break. If they opt to take a break, they may choose to breastfeed their child or express and store milk during that hour and the employer is obliged to provide all the necessary facilities. Whatever the choice, this hour is considered as working time and is remunerated.

In **Estonia**, the Occupational Health and Safety Act establishes that nursing mothers have the right to additional breaks until the child is one and a half years old. An additional break must be granted every three hours for no less than 30 minutes at a time. A break granted for nursing two or more children until they are one and a half years old should last for at least one hour. These breaks are included in working time and are paid based on the mother's average wage (compensated from the state budget), but only in cases where the mother is not receiving parental benefits. The employer must create suitable conditions for pregnant workers to work and to rest, including additional rest breaks during the working day, if needed.

In **Latvia** and **Lithuania**, legislation states that an employee with a child under one and a half years old must be allowed additional breaks to feed the child. For their part, the employee must inform the employer in good time of the need for such breaks. Breaks for feeding a child should last a minimum of 30 minutes and must be granted at least every three hours. If an employee has two or more children under one and a half years old, such nursing or feeding breaks should last at least one hour. The employer should determine the length of breaks in consultation with employee representatives. When determining the procedure for granting the breaks, the wishes of the employee must as far as possible be taken into consideration. Breaks for



feeding a child may be added to breaks in work or, if requested by the employee, transferred to the end of the day, reducing the total number of working hours accordingly. These breaks are paid on the basis of the employee's normal salary.

The **Polish** Labour Code establishes that employees nursing their babies are entitled to two 30-minute breaks if their working time is at least six hours, and to one such break if their working time does not exceed six hours but is at least four hours. If the employee is nursing more than one baby, the duration of the break is 45 minutes.

In **Portugal**, both parents have the right to breastfeeding/bottle feeding breaks. Working mothers and fathers are entitled to take two breastfeeding (or bottle feeding) breaks per day with a maximum duration of one hour, unless other arrangements are agreed with the employer. In the case of bottle feeding, this exemption from work is allowed up to the baby's first birthday. In the case of multiple births, the length of break to which both parents are entitled increases by 30 minutes after the third child (Article 47 (3, 4, 5) of the Portuguese Labour Code). The breastfeeding (or bottle feeding) break is considered to be working time and is paid.

In **Romania**, special conditions are provided in Emergency Ordinance No. 96/2003 (Article 17) regarding breastfeeding breaks: mothers are entitled to take two breaks (one hour each) for breastfeeding. Alternatively, instead of breastfeeding breaks, on request the mother may work two hours less than her normal schedule.

In **Slovakia**, to be entitled to special breaks for breastfeeding, a mother is obliged to inform her employer in writing. The entitlement consists of two 30-minute breaks during the shift until the child is six months old, and one 30-minute break until the child is one year old.

## Young workers

According to Council Directive 94/33/EC on the protection of young people at work, young workers – defined as individuals under 18 years of age – are entitled to a break of at least 30 minutes (consecutive, if possible) when their daily working time is more than four hours and 30 minutes (Council of the European Union, 1994). For example, in **Belgium**, special conditions stipulate that individuals under 18 years old are not allowed to work for more than four hours and 30 minutes without interruption. If the working time exceeds four hours and 30 minutes, they are entitled to 30 minutes' rest. If the working time is more than six hours, the rest period must last one hour, of which 30 minutes must be taken at one time (for example, two 15-minute breaks and 30 minutes for lunch). Some Member States have put in place more generous provisions. In **Ireland**, **Lithuania** and **Luxembourg**,

young workers (under 18) are entitled to a 30-minute break after four consecutive hours of work. In **Lithuania**, this is applicable to both those working or training on the job, and the breaks count as working time or training. In addition, in **Portugal**, workers aged up to 16 are entitled to a rest break of between one and two hours in order to limit their consecutive working time to four hours.

## Specific sectors

Many Member States make special provisions in their legislation for workers in particular sectors, such as transport (including road, air, sea and river transport), postal services, agriculture and energy, medical treatment and social care institutions. Some examples of those provisions are presented here.

In many Member States, there are particular conditions pertaining to rest breaks in the road transport sector. In general, working time in this sector must be organised according to the EU Road Transport Working Time Directive (European Parliament, 2002). The directive stipulates that drivers must take a break or breaks totalling at least 45 minutes after four hours and 30 minutes' driving time. That rule is, for example, strictly adhered to in the **Austrian** transport sector, where the break counts towards working hours. When the daily working time exceeds six hours, drivers are granted an additional scheduled break of at least 30 minutes, and when the daily working time exceeds nine hours they are granted an additional scheduled break of at least 45 minutes. These additional rest breaks are, however, unpaid (Austrian Working Time Act, Section 13c).

In **Cyprus**, the Organisation of Working Time in Road Transport Law 47(I)/2005 establishes that working time must be interrupted by a break of at least 30 minutes if the total working time ranges between six and nine hours, and at least 45 minutes if the total working time exceeds nine hours; the break can be subdivided into shorter periods of at least 15 minutes. In **Finland**, drivers must be given a minimum of 30 minutes' rest in one or two sessions for each work period of five hours and 30 minutes. In **Romania**, drivers in the public transport sector have the right to a break of at least 10 minutes at the end of their route.

Some countries, such as Romania and Slovakia, have particular provisions for aviation staff in their legislation. In **Romania**, there are special rules for civil aeronautical staff in the case of breaks lasting more than three hours. In **Slovakia**, rest breaks in the transport sector must be adequate and in line with the principles of occupational safety and health. Here, 'adequate' means that employees in the sector have fixed and regular times for breaks from work, the duration of breaks is defined and the breaks are continuous and long enough to ensure that fatigue or

irregular timing of work will not cause damage to the worker and their health in the short or long run.

Healthcare and retail are also sectors with particular conditions for rest breaks. In **Austria**, the special provisions in place for hospital and healthcare sector workers reflect the need for very long shifts. According to the Working Time Act for Hospitals (*Krankenanstalten-Arbeitszeitgesetz*), very long shifts (over 25 hours) must be interrupted by two rest breaks of at least 30 minutes each. In **Ireland**, retail workers who work more than six hours per day and whose hours of work include the period between 11:30 and 14:30 are entitled to an uninterrupted one-hour break which must be taken between those times (Statutory Instrument No. 57 of 1998).

## Workers using display screens

Directive 90/270/EEC lays down minimum safety and health requirements for work with display screen equipment (Council of the European Communities, 1990). One of these requirements (Article 7) stipulates the need for a break in the daily work routine:

*[t]he employer must plan the worker's activities in such a way that daily work on a display screen is periodically interrupted by breaks or changes of activity reducing the workload at the display screen.*

Indeed, Member States have provisions in their legislation for particular conditions regarding breaks from work for people working with display screens. In **Austria**, the Regulation on Display Work (*Bildschirmarbeitsverordnung*) contains special conditions for employees who work with display screens (such as computer screens) for more than two hours a day: employees are entitled to a 10-minute break after each 50-minute period of working in front of a screen. These breaks are paid by the employer, who, instead of providing breaks, can introduce changes in the tasks performed in such a way that compensates for any effects of display work. Similarly, the **French** Labour Code establishes that employers must adapt the working time of employees working on screen after a risk assessment is carried out. In addition, a worker's activity must be scheduled in such way that daily screen time is periodically interrupted by breaks or changes of activity, aimed at reducing the time spent on screen.

In **Poland**, the Regulation of the Minister of Labour and Social Policy of 1 December 1998 on safety and health at work stations equipped with display screen equipment affords employees working with electronic visual displays a break of at least five minutes after each hour of work. The breaks are counted as working time. Along the same lines, Article 175 of the **Italian** Legislative Decree No. 81/2008 determines that workers using video display terminals for at least 20 hours per week are entitled to a 15-minute break for every two hours of continuous use.

The Occupational Health and Safety Act in **Estonia** also establishes that if employees use monitors (computer screens), then work must be organised in such a way that the employee can switch tasks in order to rest their eyes. If there are no tasks the employee can perform without a monitor or computer, then the employee has the right to take regular rest breaks to rest their eyes. Altogether, these breaks must amount to at least 10% of the time the employee works with the computer (for example, 6 minutes for every 60 minutes of work). These breaks count as part of the working day.

## Arduous working conditions

In several Member States, shorter working hours or additional special breaks are granted when workers are exposed to dangerous or risky work, or more specifically, when certain work environment elements (such as temperature, for example) surpass exposure limits established in national legislation. This is the case in Belgium, Bulgaria, Estonia, Germany, Hungary, Latvia, Lithuania, Poland and Slovakia. Some concrete examples are provided below.

In **Belgium**, workplaces subject to thermal environmental factors of a climatic or technological nature must be subject to a risk analysis performed by the employer. As a result, appropriate preventive measures may need to be implemented and these could include additional rest periods. In **Bulgaria**, additional rest breaks are available for evening and night shifts. The number and duration of these additional breaks are defined according to the nature of the work and the working conditions. For example, in the case of an extended 12-hour work shift, there should be a minimum of two rest breaks, each lasting for 30 minutes and taken during the first and second part of the shift.

In **Estonia**, the Occupational Health and Safety Act establishes that in the case of considerable physical or mental workload, working in a forced position for an extended period of time or monotonous work, the employer should include extra breaks for employees during the working day or working shift.

In **Germany**, the Working Hours Act (Article 8) states that in accordance with the federal council of the Länder the government may extend the duration of rest breaks for jobs, workplaces and particular groups of workers potentially affected by hazardous work.

In **Latvia**, employers have a duty to grant an additional break to employees who are exposed to particular risks. The employer should determine the length of such breaks in consultation with employee representatives and these breaks should count as working time.

In **Lithuania**, employees working outdoors, under conditions involving occupational risks and/or carrying out strenuous or mentally demanding work should be

granted special breaks. In an eight-hour working day/shift, the minimum length of special breaks is 40 minutes. In working days/shifts of different lengths, the duration of special breaks must be proportional to the time worked. Two more specific points are also made.

- When work is performed outdoors and the temperature is below  $-10^{\circ}\text{C}$ . or in unheated premises where the ambient temperature is below  $+4^{\circ}\text{C}$ , special breaks must be organised after every work period of one hour and 30 minutes.
- When employees are exposed to occupational risks or perform physically demanding or mentally straining work, special breaks must be organised at least after every work period of one hour and 30 minutes so that their length and frequency contribute effectively to maintaining health and capacity to work.

In addition, in **Poland**, the Labour Code provides that working time should be reduced for employees working in particularly arduous or harmful conditions by introducing breaks counted as working time or reducing the standard daily working time. In the case of monotonous work or work performed at a fixed pace, breaks should be counted as working time. The list of jobs defined as being subject to arduous conditions should be drawn up by the employer in consultation with the employees or their representatives and an occupational doctor.



# 3 Recent court case rulings on rest breaks

This chapter examines some recent court cases across the EU that illustrate how intricate and complex the subject of rest breaks can be. They are loosely grouped into different sub-topics.

## Ruling in former public sector

**Austria's** Supreme Administrative Court (*Verwaltungsgerichtshof*) confirmed in a decision issued in March 2016 (Ra 2015/12/0051) that career public servants of the central state are entitled to take a paid lunch break of 30 minutes per working day. The case was brought by a postal worker classified as a career public servant (a throwback to when the Austrian postal service was part of public administration) who was not willing to accept his employer's treatment of him as an employee under private law, according to which he had to take his daily 30-minute rest break in his own time. The Supreme Administrative Court overruled Austrian Post's appeal against a lower-level court ruling that the postal worker's 30-minute break should be seen as working time and should therefore be paid by the employer. Following this case, representatives of career public servants of some provinces (*Länder*), which do not fall within the purview of the Career Public Servants' Employment Regulations, called for an extension of the right to a paid lunch break for all career public servants in Austria. However, this would require corresponding amendments to the *Land*-level employment regulations that are unlikely to be undertaken, especially given the widespread public belief that public servants are favoured over private sector employees in many respects.

## Workload, working hours and rest breaks

In **Bulgaria**, various provincial courts issued contradictory decisions concerning rest breaks from work. One of those decisions stipulated that during continuous work processes (for example, shift work) the legally defined time for a meal is included in working time if the worker is obliged to be physically available at a place determined by the employer. According to another court, meal breaks are not considered to be working time during work shifts. In its Interpretative Decision 8/2013 of 14 November 2014, the General Assembly of the Citizens' College of the Supreme Court of Cassation decided the first decision was correct. The law establishes that in continuous production processes

and at enterprises where work is uninterrupted, if the worker is obliged to be physically available at a place determined by the employer, the latter should provide the worker with time for a meal during working time.

In **Estonia**, a company argued against the Labour Inspectorate on whether additional breaks during a working day should be counted as working time (the position of the inspectorate) or not (the position of the company). In its resolution of June 2016, a first-level court concluded that, for employees that work mainly while standing up, their work can be characterised as having a considerable physical workload and thus Article 9 of the Occupational Health and Safety Act should apply, granting additional rest breaks to employees as part of working time.

In **Greece**, it was only in 2017 that the provisions of the Working Time Directive were fully applied to medical doctors. Ten associations of doctors lodged complaints with the European Commission on the basis that doctors (whether employees or trainees) were obliged under Greek law to work an average of between 60 and 93 hours per week, well beyond the 48 hours established in the Working Time Directive. They also claimed that they were being required on a regular basis to work for up to 32 continuous hours in the workplace, without the minimum daily and weekly rest periods or equivalent periods of compensatory rest. The Commission brought infringement proceedings against Greece before the Court of Justice of the European Union (CJEU) (Case C-180/14 Commission v Hellenic Republic of 23 December 2015), which upheld the action by noting that, among other things, Greek law made it possible to exceed the 48-hour weekly limit. Following the CJEU's judgment, Ministerial Decision 4498/2017 was adopted, thereby bringing Greek law in line with the Working Time Directive regarding the organisation of working time for doctors and dentists in the Greek national healthcare system. The decision stipulated, for the first time, that the break for doctors working more than six hours be set at 15 minutes.

## Activities during breaks

In **Hungary**, a crane operator sued his employer after he was fired for playing cards at his workplace. The claimant said playing cards was a 'regular practice' at the firm and that his superiors were aware of it. He also argued that he was taking a break from work only because there were two other cranes in operation at the

time and it was impossible for him to work. He said he was taking his rest break, as normal, in a way that did not hinder work processes. A court of first instance rejected the claim, stating that as rest breaks are included in working time and as detailed in this firm's collective agreement, it was not acceptable to be playing cards during a break. The appellate court partially agreed with the plaintiff, acknowledging that the employer did not question the fact that the operator was waiting to resume work, but added that the employer should have regulated how rest breaks can be taken. As no such regulation exists, the plaintiff consequently did not break any rules. In another appeal, the employer argued that the crane operator should have remained in the crane while waiting for the opportunity to resume work. The Supreme Court (*Kúria*) upheld the ruling in favour of the crane operator and added that if the employer wanted to ban certain activities like playing cards from the workplace, it should have notified the employees of such a ban. The plaintiff was awarded nine months' worth of pay for damages (*Kúria*, Mfv. I. 10.266/2016).

In **Italy**, the Labour Section of the Court of Appeal, (*Corte di Cassazione* – Section Lavoro No. 20440 of 12 October 2015) adjudicated that it is legitimate to dismiss a worker who does not respect the temporal limits of rest breaks as defined by the employer, within the scope set by legislation and collective agreements. In one specific case, the court declared the disciplinary dismissal of a worker responsible for the coordination of a group of workers in a waste collection company to be legitimate because he frequently abandoned work during working hours without adequate justification.

## Access to break rooms

In **Norway**, in 2014, the Oslo District Court received a claim from 28 employees of a cleaning company requesting that their lunch breaks should be paid. The claim was justified by the fact that, when having breaks, they did not have access to any 'break rooms' as they were at the premises of private customers or between assignments. The employer had entered into agreements with four cafés where cleaners could have their breaks. This was not considered sufficient by the court as the cleaners could be far away from these cafés at break time. However, the court concluded that cleaners could take their break in the premises of their customers, in their private homes, and that this fulfilled the obligations of the law to have access to break rooms.

## Reversal of established company practice regarding paid rest breaks

In **Portugal**, following a company's request that a previous court ruling be annulled, the Supreme Court of Justice (*Supremo Tribunal de Justiça*/Case 06S2576 of 7 May 2007) concluded that the company must consider 30 minutes' daily break as overtime work for employees working two shifts. The case was brought by a trade union in the metals sector (*Sindicato dos Trabalhadores da Indústria Metalúrgica e Metalomecânica dos Distritos de Lisboa, Santarém e Castelo Branco*) when the company stopped paying daily breaks, arguing they were not to be considered working time, going against what had been previous company practice. On the one hand, the Supreme Court decision favoured the company by annulling a previous ruling on overtime payment, but on the other it favoured the trade union by acknowledging that the company changed in 1989 what had been standard practice since 1976, namely the payment of daily breaks considered as part of working time. According to the Supreme Court, the relevance of established company practice when considering rest breaks as working time is expressly recognised in legal provisions and by Council Directive 93/104/EC concerning certain aspects of the organisation of working time (Council of the European Union, 1993).

In **Spain**, a ruling of the Supreme Court supported the view that rest breaks do not constitute effective time at work. In 2017, the Supreme Court supported the company Valencian Mediterranean Juices (*Zumos Valencianos del Mediterráneo*) in its unilateral decision to stop considering 7.5 minutes of the 15 minutes of rest break time as effective working time, implying a decrease in the annual number of free hours. Up to 2014, the company followed the sectoral collective agreement that recommended considering those seven and a half minutes of the rest break as effective time at work. The Supreme Court established that the employer had ceased to follow the recommendation to consider half of the rest break as working time. This resolution followed Valencia's High Court of Justice decision that it represented a unilateral increase of the working day and that, therefore, it contravened national regulations (the Workers' Statute) in which any substantial modification of working conditions must be agreed among social partners. The unions opposed the Supreme Court's decision.

## Entitlement to compensatory rest

In a second example from **Portugal**, a retail and services trade union (Fepces) brought a case to court on behalf of retail staff requesting the annulment of their employer's 2015 decision to add time on to the end of their working day to compensate for 15 minutes of rest break. Prior to 2015, that company had always viewed the 15-minute break as working time. The Court of Appeal considered that, for the purposes of Article 1 of the Labour Code, the practices of an enterprise that are constant, uniform and peaceful and that extend over time to establish confidence in its workers must be considered as 'labour uses'. Therefore, the daily break of 15 minutes should also be classified as working time as per the terms of Article 197 of the Labour Code, because that had been the company's standard practice for many years, without requiring workers to increase their actual working time. Article 197 determines 'the interruption of work as such considered in a collective agreement, in internal company regulations or resulting from the use of the company' should be considered as included in working time (Decision of Court of Appeal of Évora – *Tribunal da Relação de Évora/Case 8617/15.2T8STB.E1* of 20 April 2017).

In May 2018, the Labour and Social Court in **Slovenia** ruled on the right to a break during working time in the case of an employee of the Administration of the Republic of Slovenia for Protection and Rescue. The ruling states that the employer must recognise the employee's right to a break during working time, and that this is an unalienable right. Should an employer fail to recognise this right, the employee is entitled to compensation. The court also ruled that providing a kitchenette cannot be a substitute for a break from work. The police trade union lists several situations in which its employees cannot take breaks during working time, especially when they are alone in the workplace.

In the **United Kingdom** (UK), a railway signalman employed by Network Rail worked alone during each of his eight-hour shifts, his role being to continuously monitor his assigned post. The nature of the job meant that he was never able to take any single breaks of 20 minutes during any shift. As a compromise, he was permitted to take short breaks (of around five minutes) which, when combined over the course of a shift, amounted to more than 20 minutes. However, he remained on call during such breaks. The signalman brought a case to the employment tribunal alleging that these ad hoc arrangements did not comply with the working time regulations and he claimed that he was entitled either to a break (as per Regulation 12) or compensatory rest amounting to the equivalent of a break (as per Regulation 12). The first instance tribunal rejected the claim, finding that because the employee was able to take several short breaks amounting to

more than 20 minutes during the course of a shift, the arrangement fulfilled the compensatory rest conditions in accordance with regulations. Following appeal, the Employment Appeal Tribunal (EAT), referring to a precedent case (*Hughes v Corps of Commissionaires Management Ltd* [2011] EWCA Civ 1061), rejected Network Rail's interpretation of the Hughes ruling that the rest break can comprise shorter breaks over the course of a shift which, together, amount to 20 minutes or more. The EAT also rejected Network Rail's argument that, from a health and safety perspective, their system worked better than a system involving a continuous 20-minute break (*Crawford v Network Rail*: UKEAT/0316/16).

## Collective agreements and provisions on rest breaks

In **Denmark**, the Danish Broadcasting Corporation notified the Danish Union of Journalists that the custom regarding paid meal breaks would terminate from 1 June 2017 (Danish Union of Journalists) (court order of 15 February 2017 in industrial arbitration (FV 2015.0187)). The Danish Union of Journalists disputed this, claiming that the Danish Broadcasting Corporation should interpret their collective agreement as meaning that working time includes a daily paid meal break of up to 30 minutes. Furthermore, they argued that the Danish Broadcasting Corporation should also recognise that, in reinforcing the collective agreement in force, this understanding is effectively part of it and cannot therefore be terminated independently. The Industrial Arbitration Court ruled in favour of the Danish Union of Journalists: the Danish Broadcasting Corporation had to accept that the collective agreement provides for a paid meal break of 30 minutes in which the employee remains at the employer's disposal. Furthermore, the custom of a paid meal break could not be terminated in isolation but only in the case of termination of the whole agreement between the two parties.

In **Sweden**, the Swedish Municipal Workers' Union (Kommunal) lost a case in the Labour Arbitration Court in May 2016 against the employer organisation Swedish Association of Local Authorities and Regions (SKL). According to Kommunal, SKL had violated the rules on rest and meal breaks in the collective agreement (the so-called 'Main Agreement 13' (Huvudöverenskommelse, HÖK 13)) between the two parties by exchanging rest breaks for meal breaks (except for night shifts). However, based on the general provisions in the collective agreement, the Labour Court rejected Kommunal's claim, stating that rest breaks could be exchanged for meal breaks when and if the employer finds it necessary, during both day and night shifts. The following year, in January 2017, Kommunal won a separate case in the same court, also concerning

rest breaks. This time, the dispute was with the Swedish Bus and Coach Federation (Sveriges Bussföretag). According to Kommunal, the confederation had violated the collective agreement (the so-called 'Bus Sector Agreement' (Bussbranschavtalet)) between the parties by allowing bus drivers to drive more than two hours and 30 minutes continuously without taking a rest break.

## Rulings regarding employers' refusals to grant rest breaks

In the **UK**, the case of *Grange v Abellio London Limited 2016* addressed the issue of what constitutes a refusal of the right to a rest break. Previous case law suggested there need to be two elements to any such claim of refusal: (1) an assertion to the right and (2) a refusal of permission to exercise it. In other words, there must be an actual refusal by the employer, and 'mere inadvertence' is insufficient to establish a breach.

This interpretation of the Working Time Regulations leaves a gap in protection for workers and employees. Indeed, the European Commission challenged the UK on the basis that the Working Time Regulations were incompatible with the requirements of the Working Time Directive and asserted that employers should encourage workers to take their breaks. UK government guidance was subsequently amended to remove any suggestion that employers only had a passive role to play. The case of the *Scottish Ambulance Service v Truslove 2011* approved the observations of the European Commission, concluding that employers need to ensure that the working arrangements allowing workers to take those breaks are in place. It is also considered a refusal if an employer puts in place working arrangements that preclude workers from taking a 20-minute break. This case confirmed that an employer is not required to force employees to take their rest breaks, only that they must be given the opportunity to do so.

In the case of *Grange v Abellio London Limited 2016*, although the workers had a working day of eight hours and 30 minutes – with 30 minutes being unpaid and treated as a rest break – in reality it was very difficult for Mr Grange to take his half-hour rest break. Thus, in 2012, the company changed their employees' working day to eight hours, the idea being that they would work without a break but finish 30 minutes earlier. This was communicated to all affected staff but it did not

constitute a workforce agreement (which would permit excluding certain provisions of the Working Time Regulations). Mr Grange filed a grievance in 2014 complaining that for two and a half years he had been forced to work without a meal break, which had affected his health. The grievance was heard and eventually rejected. Mr Grange lodged a claim in the employment tribunal, claiming that he had been denied his entitlement to a rest break throughout different periods of his employment. An employment tribunal dismissed the claim at first instance, finding that there had not been any actual request made which had been refused. On appeal, the EAT concluded that the tribunal had wrongly applied the law and that the working arrangements were such that the employer had failed to 'afford' the employee the opportunity to take rest breaks. Thus, there had been a refusal (*Grange v Abellio London Limited 2016*).

A second case in the **UK** concerns rest breaks not granted by the company Higher Level Care Ltd (*Santos-Gomes v Higher Level Care Limited (UKEAT/0017/16/RN)*), a company that provides accommodation and support for vulnerable young people. After she had left her employment with Higher Level Care, Ms Gomes brought a claim to tribunal seeking compensation for, among other things, failure to allow her to take the 20-minute rest breaks required by the Working Time Regulations. Ms Gomes alleged that this had damaged her health and well-being. The tribunal upheld this claim. The parties agreed that Ms Gomes should be compensated for pecuniary loss of £1,220. However, they disagreed about whether she was also entitled to recover compensation for injury to feelings. The tribunal judge held that she should not be compensated for injury to feelings. Ms Gomes appealed to the EAT, where her appeal was dismissed. Ms Gomes then appealed to the Court of Appeal, arguing that the tribunal had the power under domestic law to award compensation for injury to feelings for a breach of the entitlement to a rest break. She also argued that, if domestic law did not allow for compensation for injury to feelings, it should be interpreted in a way that would permit the tribunal to make the award because of obligations under EU law. The Court of Appeal dismissed her appeal, ruling that there was no power in domestic law to award compensation for injury to feelings for a failure to provide rest breaks under the Working Time Regulations, nor did EU legislation require such an interpretation.



## 4 Debates on rest breaks in Member States

While only rarely are rest breaks the subject of public debates or discussions, in recent times there have been a few instances where the topic was controversial in some Member States.

In **Croatia**, in 2016 there was a debate on extending daily working hours to nine hours, including a one-hour rest break. The debate was started by one of the parties of a coalition that only held office for 10 months in 2016. The goal of this government initiative was to abolish paid rest breaks and keep daily working hours at eight hours. The initiative was supported by the Croatian Employers' Association, which argued that in most EU Member States rest breaks are not considered as working time. Trade unions strongly opposed the proposal, which was abandoned soon thereafter due to early elections in September 2016.

In **Denmark**, paid meal breaks became a hot topic in the collective bargaining round of the public sector at the beginning of 2018. It was one of the main issues in the negotiations that could have sparked an industrial conflict. This was avoided, and ultimately the public sector kept the paid meal/lunch break.

In **Finland**, a case following new provisions relating to rest breaks in a collective agreement received some media attention in the Tampere region in 2017. The city of Tampere decided to amend the rules on daily rest breaks for some public sector employees, for example in the social and healthcare sector. Previously, lunch breaks for these employees were counted as working time as they were usually arranged so that employees were present at the workplace and at the employer's disposal. Following the amendment, 30-minute lunch breaks would be taken as part of the employees' own time and was thus not considered as working time. As this meant that the total length of the working day would in effect be extended by 30 minutes, many employees were unhappy with the change. Critics also argued that the nature of the work in the sector makes it difficult to leave the workplace during lunch hours.

In **Luxembourg**, discussions during a recent 'café-débat' organised by the Luxembourg Institute of Socio-Economic Research (LISER) in September 2018 referred to the topic of paid rest breaks. This debate aimed to highlight issues relating to daily cross-border mobility and its impacts on health, stress, work-life balance, and so on. The discussion ended by looking at efforts on the part of Luxembourg authorities to improve travelling conditions for cross-border workers

and provide alternative, more cost-effective solutions such as co-working spaces, teleworking or working time arrangements. In this context, it was proposed that shorter lunch breaks would enable people to leave earlier in the afternoon, for example (*Le Quotidien*, 2018).

In the **Netherlands**, bus drivers have been complaining recently that work pressure has increased to unsustainable levels. With the increase in digital planning and growing emphasis on efficiency, there is no room for error or delay in the bus routes and therefore in their schedules. By the nature of their profession, bus drivers must effectively stay at their post during a shift. In those situations, having a 15-minute break every four hours and 30 minutes, in accordance with the law, is considered insufficient. While in other professions individuals would be able to quickly leave their desk or work station to find a bathroom, this is more difficult for public bus drivers. The time recording system used by several companies indicates when a driver should start driving and registers any delay if, for example, they wait for a passenger running to catch the bus. Bus drivers have gone on strike several times since January 2018 in different areas of the country demanding a toilet break during their shifts.

In **Poland**, the issue of rest breaks was raised in parliament in 2016 when a member submitted a question about the need to introduce obligatory statutory rest breaks in situations where standard working time is 12 hours or more. The MP had received numerous complaints from constituents working in stores with large floor areas or at petrol stations where the work schedules require 12 hours of working time for every 24-hour period. In such cases, the statutory 15-minute rest break seems insufficient time for eating a meal or getting minimum rest. The MP made a concrete suggestion on how to tackle the issue and also proposed strengthening the sanctions available to the National Labour Inspectorate if, during an inspection, it is established that the employer violates the rules surrounding granting rest breaks. In his reply to the question, the Deputy Minister of Labour pointed out that longer rest breaks can be introduced by working regulations or collective agreements but the ministry does not see the need to take legislative measures in this respect or to modify the sanctions that the inspectorate already has at its disposal.



# 5 Impact of rest breaks on the health and performance of workers

To date, not much research has been carried out on the impact of rest breaks on workers' health and performance at work. This section will look briefly at some research studies cited by the Network of Eurofound Correspondents which address the impact of rest breaks in the workplace in terms of health and well-being at work, and performance and productivity.

## Rest breaks and health and well-being at work

### Prevalence and benefit of rest breaks

In his analysis of the impact of rest breaks on health, well-being and performance, Tucker (2003) stated that 'it is commonly assumed that rest breaks are a good thing and that their incorporation enhances performance, well-being and safety'. However, the author adds that, although there is limited epidemiological evidence showing a correlation between rest breaks and risk of accidents, the risk of accidents increases in specific industrial settings, such as in the mining sector, and in particular before meal breaks or just prior to the end of a shift.

Rest breaks are widely considered to be an effective way of avoiding an accumulation of fatigue during the working day. Blasche et al (2017) found that workers' intention to take a break and the act of taking a break represent individual differences that can explain variations in impact on work-related fatigue and stress. While assumptions about the positive effects of rest breaks on health and well-being seem undisputed, there is a lack of hard evidence on how they can be better used to improve health and well-being.

As part of a project on mental health in the workplace carried out by BAuA, the German Institute for Work and Health (Rothe et al, 2017), a working time representative survey of around 20,000 employees in **Germany** found that despite the strong involvement of workers in determining their rest breaks (61%), more than a quarter of them do not actually take their breaks or are not in a position to take them, which, according to BAuA, is due to time pressure. Those who do avail of rest breaks report that taking them with colleagues in a dedicated room or going for short walks provide the greatest benefit.

### Recovery and well-being: lunch breaks versus micro breaks

Fritz et al (2013) reviewed the findings from organisational psychology and occupation health psychology to address, among other things, questions on the effects of breaks on well-being and job performance and on experiences and activities associated with breaks that affect recovery from stress at work. One of the findings suggests that employees benefit most by engaging in relaxing experiences, regardless of the length of the break. Also, distancing oneself from work, for example psychologically, appears to play an important part in recovery and well-being, especially if this takes place away from the work station. To this end, lunch breaks can help in regaining energy and maintaining high job performance throughout the day, while micro breaks are most suited to enhancing employees' work experience, for example through social connections with colleagues, and contributing overall to a working day with less fatigue.

A Finnish research project into the association between rest breaks and workers' well-being and performance effectively reaches the same conclusion regarding recovery during lunchtime breaks: psychological detachment is linked to successful recovery with more energy, while not distancing oneself from colleagues during that break is not positively associated with recovery (Sianoja et al, 2016). Another study by Sianoja (2018) specifically links walks in parks and relaxation during the lunch break with well-being during the afternoon. However, although fostering better concentration, walking was not found to lower afternoon fatigue, while relaxation exercises during the break were found both to improve concentration and reduce fatigue.

Trougakos and Hideg (2009) posit an interesting perspective for future research on recovery from job stress, examining individual differences and situational factors that may affect recovery. Indeed, activities leading to recovery from work are not a 'one size fits all' solution from the authors' perspective. Instead, they propose that such activities are interrelated rather than independent: activities before, during and after work need to be considered together to grasp their cumulative effect on employees' energy levels.

## Risks to health

In a **Norwegian** study (Goffeng et al, 2018), heart rate variability (HRV) was used as a criterion to assess the potential relationship between psychological and physical strain and rest breaks. A group of 24 care workers took part in measurements during work and sleep over four consecutive work shifts. The HRV parameters revealed significant differences among work, leisure time and sleep; indications of lower cardiovascular strain were observed during the one-hour afternoon break when compared to the start of the shift in the morning. A report yet to be published from the same authors suggests that increasing the duration of breaks seems to reduce cardiovascular strain during workdays, as measured by HRV.

McClelland et al (2017) studied the effects of lack of rest breaks on psychological and physiological risk factors in the **UK**. Fatigue in trainee anaesthetists was found to be especially prevalent during night shift work, with many respondents remarking on the absence of breaks and inadequacy of rest facilities. More than half of them reported having an accident or a near miss when travelling home from work.

The Stress Research Institute at Stockholm University in **Sweden** conducted research into employers' responsibility to provide safe working environments, identifying a negative correlation between the number of working hours and safety levels in a workplace. In particular, both the lack of control over the number of hours worked and the lack of rest breaks reduced safety levels in the workplace. Moreover, Kecklund et al (2010) reported on the inverse relationship between fatigue levels in doctors and levels of patient safety, arguing that when rest breaks are not clearly established, as in flexible working patterns, health professionals are more likely to continue working rather than pausing or taking a rest break. Gillberg (2018) also points out that increasing pressure on employees to stay connected through digital devices results in 'limitless working', resulting in fewer chances to take proper rest breaks.

## Rest breaks associated with performance and productivity

The relationship between rest breaks and performance and productivity is seldom found in research literature, which leaves room for speculation on the usefulness of daily rest breaks from a production point of view. A study conducted in **Denmark** questioned the weekly variation between agreed working time and real working time and takes the lunch break as a parameter to assess it. One of the assumptions is that the paid lunch break may be responsible for a drop in working hours and, as a result, of productivity also. The findings indicate that there was no significant difference in effective working time between employees whose lunch break is paid and those with an unpaid lunch break. In reality, according to the findings, staying longer at the workplace does not necessarily equate to improved productivity. It seems that, on the contrary, employees tend to compensate for the paid lunch break by leaving the workplace a little earlier (Bonke, 2014).

The significance of rest breaks increases as work intensifies. Over a period of five years, Tomassetti (2015) analysed opt-out clauses relating to rest breaks within collective agreements in the metal industry in a sample of 350 companies in Lombardy in Italy. Tomassetti compared the opt-out measures (aimed at increasing productivity via specific arrangements in the way breaks could be taken) with how rest breaks were defined in the sector's national collective agreement. The opt-outs comprised either moving rest breaks to the end of each shift, so employees would effectively take their rest break at the same time that production stopped or reducing the duration of the lunch break. The results showed a strong connection between such intensification of work and poor health.



## 6 | Conclusions

There is great variation in the way rest breaks are regulated in the EU Member States in terms of their duration and timing. More importantly perhaps, there is no uniform approach to the way breaks are considered as working time and subsequently paid. In the majority of Member States, and in general terms, rest breaks are not considered as actual working time and are not paid. In many cases, however, shorter breaks (e.g. coffee or toilet breaks) are considered to be working time and paid. In contrast, in Croatia, Poland, Portugal, Slovenia and Spain, rest breaks are considered to be working time and are paid regardless of their purpose or length.

As is the case in national legislation, in collective agreements longer rest breaks (e.g. meal breaks) are not usually included in working time and are not paid, while shorter breaks are. The timing is not always specified in agreements; more often, this is left to companies' or organisations' internal regulations or, ultimately, to the worker's immediate supervisor. Therefore, it is reasonable to assume that, unless strictly regulated in collective agreements or national legislation, employers have considerable discretion in setting when and how breaks can be taken. Hence, this underlines the importance of worker representation when the rules governing rest breaks from work are being defined.

Apart from basic and wide-ranging rules setting the conditions for taking rest breaks from work, national legislation across the EU also considers a number of special conditions for particular groups of workers. In terms of individual characteristics, young workers and pregnant or breastfeeding workers are entitled to particular conditions that depart from the general rules. Many Member States also cover specific sectors of activity by establishing requirements that go beyond the general rules. The most common examples are transport (including road, air and marine) and healthcare, but they can also be found in agriculture, energy, postal services and retail. In these cases, workers are supposed to take regular breaks from work to avoid fatigue that may cause injury to themselves, their clients or their patients. Also important to mention are the many cases of special rest break conditions for people deemed to be working in arduous conditions in general and for those working with display screens (e.g. breaks at every hour) in particular.

The examples of recent court cases collected for this report highlight two important facets. While on the one hand, they show that the issue of rest breaks at work is not a very common topic of dispute, on the other they illustrate just how complex the issue can be. Most cases address situations in which either an employer or employee's interpretations diverge from the rules, including, for example, whether breaks are paid or unpaid, the purpose of the breaks and the conditions created by the employer in which breaks can be taken. In general, rest breaks are rarely the subject of public debates or discussion. Nevertheless, the examples shown above indicate that they can be the subject of controversy in the context of collective bargaining or legislative proposals and may ultimately lead to industrial action.

Available research shows that when rest breaks are of an appropriate duration and appropriately scheduled, they can reduce the potential harmful effects of work on health and well-being while contributing to improved performance and productivity. Regulations in the form of legislation, collective agreements or internal company regulations may help to ensure that the basics are at least thought through. However, they do not necessarily guarantee that the best conditions are created in each situation. Only by accommodating workers' views (directly or through their representatives) in agreements can the best results in terms of well-being and performance be achieved. While research shows that communications technology may increase workload and reduce breaks take-up, which is harmful for both workers and organisations, other forms of digital technology can also be used to ensure that breaks are taken when necessary, which is beneficial for both. As the German Institute for Work and Health advocates, it is important to give more consideration to the design of healthy work breaks and to creating a 'rest breaks culture at work'.



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This report addresses the rarely discussed issue of rest breaks at work across the European Union. Based on input from the Network of Eurofound Correspondents, it reveals some of the complexities involved in defining whether such breaks should be paid or unpaid, how long they should be and where they should be taken. The report compares different approaches among Member States, gives examples of judicial rulings, highlights some types of work that attract special consideration and looks into causal relationships between breaks, health and performance at work. When rest breaks are of an appropriate duration and appropriately scheduled, they can reduce some of the harmful effects of work on health and well-being while contributing to improved performance and productivity.

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