

TRIBUNAL DE JUSTICIA DE LAS COMUNIDADES EUROPEAS
SOUDNÍ DVŮR EVROPSKÝCH SPOLEČENSTVÍ
DE EUROPÆISKE FÆLLESSKABERS DOMSTOL
GERICHTSHOF DER EUROPÄISCHEN GEMEINSCHAFTEN
EUROOPA ÜHENDUSTE KOHUS
ΔΙΚΑΣΤΗΡΙΟ ΤΩΝ ΕΥΡΩΠΑΪΚΩΝ ΚΟΙΝΟΤΗΤΩΝ
COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES
COUR DE JUSTICE DES COMMUNAUTÉS EUROPÉENNES
CÚIRT BHREITHIÚNAIS NA gCÓMHPHOBAL EORPACH
CORTE DI GIUSTIZIA DELLE COMUNITÀ EUROPEE
EIROPAS KOPIENU TIESA



EUROPOS BENDRIJŲ TEISINGUMO TEISMAS
EURÓPAI KÖZÖSSÉGEK BÍRÓSÁGA
IL-QORTI TAL-ĠUSTIZZJA TAL-KOMUNITAJIET EWROPEJ
HOF VAN JUSTITIE VAN DE EUROPESE GEMEENSCHAPPEN
TRYBUNAŁ SPRAWIEDLIWOŚCI WSPÓLNOT EUROPEJSKICH
TRIBUNAL DE JUSTIÇA DAS COMUNIDADES EUROPEIAS
SÚDNY DVOR EURÓPSKYCH SPOLOČENSTEV
SODIŠČE EVROPSKIH SKUPNOSTI
EUROOPAN YHTEISÖJEN TUOMIOISTUIN
EUROPEISKA GEMENSKAPERNAS DOMSTOL

Press and Information

PRESS RELEASE No 72/04

5 October 2004

Judgment of the Court in Joined Cases C-397/01 to C-403/01

Bernhard Pfeiffer and Others v Deutsches Rotes Kreuz, Kreisverband Waldshut e. V.

MAXIMUM WEEKLY WORKING TIME, INCLUDING DUTY TIME, CANNOT EXCEED 48 HOURS FOR RESCUE WORKERS IN AN EMERGENCY MEDICAL RESCUE SERVICE

A derogation from that principle is valid only if consent is given, expressly and freely, by the worker individually

Mr Pfeiffer and the other claimants before the national court are, or were, employed as emergency workers by the Deutsches Rotes Kreuz (German Red Cross), a private-law body, which operates a land-based rescue service using ambulances and emergency medical vehicles. The employees agreed with the employer in their various contracts of employment that a collective agreement was to apply, by virtue of which the employees' average weekly working time was, when account was taken of their obligation to spend an average of at least 3 hours per day on duty, extended from 38.5 hours to 49 hours. During periods of duty time, the emergency workers concerned had to make themselves available to their employer at the place of employment and remain continuously attentive in order to be able to act immediately should the need arise.

Mr Pfeiffer and his fellow workers brought an action before the Arbeitsgericht Lörrach for a declaration that their average weekly working time should not exceed the 48-hour limit laid down by the directive on the organisation of working time.¹ The German court stayed proceedings in order to refer a number of questions on this matter to the Court of Justice.

The Court found, first, that the directive also applies to the activities of emergency workers in attendance in ambulances as part of a rescue service. None of the exceptions provided for was relevant here: the cases did not involve services essential for the protection of public health, safety and order in cases of exceptional gravity and scale (such as major catastrophes), which by their nature do not lend themselves to planning as regards working time; nor did they

¹ Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (OJ 1993 L 307, p. 18).

involve road transport services, the main aim of the activity at issue being to provide initial medical treatment to the sick or injured.

The Court went on to find that any extension of the 48-hour period of maximum weekly working time laid down by the directive requires each worker individually to give his consent, expressly and freely. Therefore, it is not sufficient for the employment contract to refer to a collective agreement permitting such an extension.

In accordance with its judgment in *Jaeger*, the Court then held that in the calculation of the maximum period of daily and weekly working time, periods of duty time must be taken into account in their totality.² The 48-hour upper limit on average weekly working time, including overtime, constitutes a rule of Community social law of particular importance from which every worker must benefit, since it is a minimum requirement designed to protect his safety and health. In the case of emergency workers, the directive precludes national legislation the effect of which is to permit, including by means of a collective agreement or works agreement based on such an agreement, that upper limit to be exceeded.

Finally, the Court found that the directive fulfilled, so far as the 48-hour maximum period of weekly working time is concerned, the conditions necessary for it to have direct effect: in other words, as regards its contents, it is unconditional and sufficiently precise and may therefore be relied on before the national courts by individuals against the State where the latter has failed to implement the directive within the prescribed period or has failed to implement it correctly.

In proceedings between private parties a directive admittedly cannot of itself apply, since it can never impose obligations on an individual. However, the national court is bound, when it applies the provisions of national law enacted for the purpose of transposing obligations laid down by a directive, to consider the whole body of rules of national law and to interpret them, so far as possible, in the light of the wording and purpose of the directive in order to achieve an outcome consistent with the objective pursued by the directive. In this instance, the national court must thus do whatever lies within its jurisdiction to ensure that the maximum period of weekly working time, which is set at 48 hours by Article 6(2) of the directive concerned, is not exceeded.

² See the judgment in *Jaeger* as regards doctors' on-call duty (Case C-151/02 [2003] ECR I-8389; Press Release No 68/03).

Unofficial document for media use: not binding on the Court of Justice

Available in English, French and German

The full text of the judgment can be found on our internet page

<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en>

In principle, it will be available from midday CET on the day of delivery

For additional information, please contact Christopher Fretwell

Tel: 00352 4303 3355 Fax: 00352 4303 2731

*Pictures of delivery of the judgment are available on EbS "Europe by Satellite",
a service provided by the European Commission, Directorate-General for Press and
Communication,*

L-2920 Luxembourg, Tel: 00352 4301 35177 Fax: 00352 4301 35249

or B-1049 Brussels, Tel: 0032 2 2964106 Fax: 0032 2 2965956