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Labour Law

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Gvuido Novak
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Subject: Your query registered with us under reference number Ares(2014)432112

Dear Mr Novak,

Thank you for your letter dated 18/02/2014 concerning the working time of workers in the Slovenian armed forces, in particular as regards the payment of so-called periods of "readiness" at the working place.

At EU level, the Working Time Directive 2003/88/EC governs certain aspects of the organisation of working time. It sets out a number of provisions with a view to protect the health and safety of workers, including a maximum to average weekly working time (48 hours, in accordance with Article 6 of the Directive) and minimum daily (at least 11 consecutive hours per 24-hour period, in accordance with Article 3 of the Directive) and weekly rest periods (at least 24 hours of uninterrupted rest plus the 11 hours' daily rest, in accordance with Article 5 of the Directive). These are the minimum standards and national law may provide for a more favourable level of protection for the worker, but on the other hand Member States also have the possibility to set up derogations in certain cases, such as in the case of activities involving the need for continuity of service.

For the purposes of the application of these conditions for the protection of workers' health and safety, the Court of Justice has clarified that all the time spent at the workplace on "on-call duty" has to be counted as working time and cannot be considered as rest time, even if the worker is not actively performing tasks (see in particular Cases C-303/98, *SIMAP*, C-151/02, *Jaeger* and C-14/04, *Dellas*).

It appears from your letter that your concern about the "readiness periods" is not that they would lead to exceeding the length of the working time as limited under the Directive or

with a lack of rest periods as set out above, but instead your concern relates to the remuneration of the working time in question. I regret having to inform you that the Working Time Directive does not regulate the matter of remuneration. In accordance with Article 153(5) of the Treaty on the Functioning of the European Union (TFEU), the matter of pay is not within the scope of EU labour law directives and is left within the competence of the Member States. Therefore, the Working Time Directive, and EU labour law more generally, does not deal with the level of salaries and pay for working time.

On the basis of the information provided in your letter, I therefore have to inform you that your situation does not seem to fall within the scope of EU law.

I hope you will find the above explanations useful.

Yours sincerely,



Muriel Guin
Head of Unit