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Advisors:  
Rikard Larsson  
Annamaria Westregård

# Change in Working Time: The Effect on Human Resource Management



Linda Mjöll Andrésdóttir  
(790118P409)  
Lund University



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Master's Thesis by  
**Linda Mjöll Andrésdóttir**  
lindamjoll@gmail.com  
Ekonomihögskolan  
Lund University  
Box 7080  
220 07 Lund  
Tycho Brahes väg 1  
Sweden

Advisors:

Rikard Larsson  
Rikard.Larsson@fek.lu.se  
Ekonomihögskolan  
Lund University  
Box 7080  
220 07 Lund  
Tycho Brahes väg 1  
Sweden

Annamaria Westregård  
annamaria.westregard@busilaw.lu.se  
Ekonomihögskolan  
Lund University  
Box 7080  
220 07 Lund  
Tycho Brahes väg 1  
Sweden

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# Executive Summary

How a change in working time affects human resource management (HRM), while considering the influence of national culture, is the subject of this research project. Three countries in the European Union (EU) are selected for this work: Denmark, Poland and the UK. These countries are markedly distinct in many respects, thus serving as a good demonstration of the variety in the EU.

Increased workload of employees has caused a concern within the EU. Workers have been complaining about too much workload, fatigue and a need to balance leisure and working time. As a result, the EU has introduced and implemented the Working Time Directive (WTD). It is supposed to improve the health and safety conditions for workers and to balance working and leisure time. However, the WTD is not functioning as well as anticipated, with some countries not satisfying the WTD conditions.

Currently, the WTD is under re-examination and, among other things, certain provisions and a change in the working time definition are being investigated. If countries and organizations intend to fulfill the obligations of a re-examined Directive, they will have to re-design some of their HRM functions. Working time has pretty much been considered a free variable in many cases; something that one can tune up and down to meet demands. With the WTD imposing a strict maximum upper limit of 48 hours/week, ramifications are bound to impact HRM.

Planning for the future is of utmost importance for national governments as well as organizations. That is, if they tend to fulfill a re-examined WTD, which will tighten the definition of working time, the derogation article and erase the possibility of opting out. These changes will have effects on the labour market as a whole, although it hits some sectors more than others. The implications of these changes will influence countries differently, depending on their national legislation, collective bargaining system and their national culture. Countries with national legislation and/or collective bargaining systems are coping better with this revamping; they are used to be constrained when it comes to working time. Finally, national culture will either make it easier or more

difficult while adapting to the working time change. It all depends on the values, beliefs and assumptions of the citizens of each country.



# Chapter 1

## Introduction

Labour conditions are vital for citizens of all countries. Workers around the world have been complaining about too much workload, fatigue and a need to balance leisure and work time. In particular, the citizens within the European Union (EU) want to fulfill their cultural norms (Golden & Figart, 2000:1). However, those cultural norms are different within the EU as will be demonstrated in the empirical research presented in this thesis.

The EU implemented a Working Time Directive (WTD) in 1993. It is supposed to improve health and safety condition for workers, as well as working and living conditions within the EU. It lays down provisions of maximum 48 working hours (h) per week, including overtime, rest periods, breaks and leaves per year to protect the health and safety risks of workers. This directive applies both to public and private sectors although some sectors are excluded: air, rail, road, sea, sea fishing, inland, waterway and lake transport<sup>1</sup>. However, there has been some controversy whether countries are in reality complying with this directive, especially when the definition of working time has been tightened. Furthermore, many EU countries have experienced problems when implementing the WTD. Today, some countries (e.g. the Netherlands) are already going around the directive and stating that all workers that have at least three times the minimum salaries may be regarded as an exception. Hence, they do not need to comply with the WTD.

The WTD should now be implemented in all Member States. The WTD is currently under re-examination and the Commission is investigating whether the directive is func-

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<sup>1</sup>In 2000, the Council adopted Directive 2000/34/EC amending Council Directive 93/104/EC. It now includes certain aspects of organization of working time which covers sectors and activities which were excluded from the 93/104/EC. Directive 2000/34/EC had to be transposed by the Member States by 1 August 2003. In what follows, when WTD is referred to, it is Directive 93/104/EC as amended by Directive 2000/34/EC.

tioning as well as it should. For example, problems regarding the definition of working time which was decided up on in recent case law, i.e. the SIMAP (2000) and Jaeger (2003) cases. These cases concerned the health care sector and tackled the issue of whether time spent on call constituted working time within the definition of the WTD. Today, the question arises whether the definition of working time, according to these judgments by the European Court of Justice, have to be enforced? Furthermore, some articles of the Directive are being misused, i.e. the opt-out possibility and the article regarding derogations. If the Commission decides to take out the possibility of opting out or to change the derogation article, it will lead to problems for the labour market as a whole. National governments and organizations will have to take into account that working time is not a fixed factor when designing human resource management (HRM). Moreover, overtime has been taken for granted in some sectors and in some national cultures. Therefore, when a supranational authority, such as the EU, introduces binding regulations (like the WTD) on countries, it is bound to have an effect on HRM and national culture.

## 1.1 Problem Specification & Purpose

The WTD has given birth to various problems. Among them is the implementation of the WTD. Who can opt out? Can a certain group of workers be classified under the article about derogation? What is the proper definition of working time? The working time definition has been the core of two recent cases, the aforementioned SIMAP and Jaeger cases. Even though all sectors will experience some difficulties as the result of a change in the definition, the focus of this thesis will be on sectors that will undergo the most drastic changes.

Naturally, the Commission wants to solve problems and difficulties that countries have encountered. Some are breaking or taking advantage of the legislation, which is not fair against other EU countries. This is not considered a fair competition within the single market, and leads indirectly to problems for other EU countries: they lose labour productivity by obeying rules that others ignore.

EU countries are currently struggling with how to adapt to the new working time definition. HRM theory has taken working time for granted, which has not been seen as a deciding factor in the way HRM is designed. Thus, the following problem arises: do HRM functions have to be developed according to working time specifications? Will re-

ward systems need to be changed or adjusted when employees in many sectors are forced to cut down their overtime? What is considered as overtime and what is not? With less overtime carried out by employees, there will be more demand for skilled employees. What needs to be changed with regards to training and development of employees? Selection and appraisal systems might have to be more effective due to the fact that more candidates/employees have to be evaluated and assessed within an organization. Questions like these will influence the way HRM functions are to be designed in the future. As a result, HRM theory can no longer disregard the fact that working hours affect the way human resource functions have to be designed. A change in working time will also have implications for the labour market. It will introduce problems regarding cost, employment opportunities, balance of leisure/work and believes, values and attitudes of people. In conclusion, national governments and organizations will most likely have to adjust their human resource functions, and will, among other things, experience problems such as shortage of labour and the need to increase training.

As mentioned above, there are many potential problems regarding the WTD, e.g. related to the opting-out possibility, the derogation article and the new working time definition. However, this thesis will focus on the following question: *How does a change in working time influence HRM?* The purpose of this thesis is, in addition to providing an answer to the aforementioned question, to use national culture to thoroughly investigate the subject.

## 1.2 Demarcations

The focus within the WTD is, of course, on working time. However, derogations and the opt-out possibility are also discussed in depth as they are relevant concerning a change in the definition of working time.

The essence of cultural discussions in the thesis is mainly aimed at the national and social culture rather than organizational culture. The reason for this choice is that it reflects the overall perspective of a country. An organizational culture consideration would result in a more detailed analysis of organizations, i.e. the focus would not be on how the change in working time affects the overall nation but rather on individual organizations. It is the national culture that shapes working time, thus it will be analyzed by taking advantage of the most recognized and acknowledged research regarding culture, namely Hofstede's four major dimensions (individualism, power distance, un-

certainty avoidance and masculinity). However, Hofstede's work has been criticized due to the fact that it is based on cultural values of only a single company (IBM). Therefore, frameworks of other scholars, such as Trompenaars, regarding national culture will be touched upon.

When examining HRM, only its major functions will be taken into account: selection, rewards, appraisal and development. Regarding the empirical search for the three countries, there was not a variety of data about the four HRM functions. Furthermore, because of lack of data of how legal provisions effect the HRM functions in the three countries, an analysis of that part will be left out. Both empirical as well as theoretical data are lacking with regards to the exit function; hence it will be excluded from the current discussion. Some other aspects of HRM are also excluded, e.g. equal opportunity, job analysis and employee/employer relationships. This was mainly done in order to keep the thesis focused, although in some cases empirical data were difficult to locate.

The following forces, that affect working time, will be excluded: social relations, the market, technology and economics factors. In addition, it is outside the scope of the thesis to scrutinize how a change in working time might promote employment opportunities. The problem specification includes solely full-time workers. An inclusion of part-time workers would incorrectly reflect the proper overtime. Hence, a change in the EU work patterns, i.e. the increase of part-time jobs and flexible working time is excluded. Finally, we will not tackle the decrease in collective working time reductions, i.e. the fact that more individual negotiations in working time reductions have been surfacing.

Information regarding the empirical research was limited for some areas. Detailed data for all the four HRM functions for the three researched countries were limited. Legal provision effects on these functions were not found. Furthermore, limitations exist regarding how the problem is tackled. Legislation, national culture, working time and HRM functions all have some influence on each other. The impatient reader can look at Fig. 7.1 for clarification; some of the relationships are excluded when analyzing the problem. This is done to keep the thesis tightly focused, but a lack of information also plays a part.

When dealing with statistics, it should be kept in mind that certain limitations apply when comparing countries. When considering collective agreements, the reader should be aware of following fact: we do not distinguish between individual sectors/industries, as well as between blue and white collar workers. All numbers relating to collective

agreements quoted in this thesis, are the average among sectors/industries.

## 1.3 Outline

This chapter provides a brief introduction and identifies the problem to be investigated. Chapter 2 describes the methodology applied. Working time is discussed in general and described for the researched countries in Chapter 3. The law part is the subject of Chapter 4. It contains a discussion on the WTD, the SIMAP and Jaeger cases, as well as the national legislation of the selected countries. Chapter 5 outlines the national cultures for each country and provides a description of cultural theory. HRM theory is delineated in Chapter 6 along with a discussion on the each country's HRM. The theoretical conceptual framework is introduced in Chapter 7 and compared for the countries under scrutiny in Chapter 8. Finally, key findings, insights, conclusions and future outlook are presented in Chapter 9.



# Chapter 2

## Methodology

In this chapter the methodology used in the thesis is delineated. The balance between Business Administration and Business Law is relatively equal as presented in this work. Working time is the key word/issue throughout the thesis and combines the two parts tightly together.

### 2.1 Empirical Study

Three countries have been selected for this research: Denmark, The United Kingdom (UK) and Poland. These countries provide an example of how a change in working time affects their HRM, while taking into consideration their national culture. Why choose three countries for this research? To give a relatively broad overview and to make the research dynamic. Selecting only one or two countries would not have resulted in an adequate overview of what is actually occurring. Picking more than three countries would, most likely, not add much in terms of new results.

These three countries were chosen as they represent different configurations in Hofstede's four dimensional categories. In addition, their geographical location and infrastructure influenced the decision. Denmark belongs to the Nordic countries and is considered to be very socialistic. It is one of the EU15 and has a rather short working time compared to the other EU countries. The situation in Denmark will give the reader a good idea of how the WTD will influence a country that has been heavily reliant on collective bargaining (as many other EU countries). On the other hand, the UK belongs to the Anglo-Saxon group and has a history of conservatism. It was mainly chosen because its average working week is about 16% longer than in other EU countries (Europa, 2004:1-2). Therefore, the enforcement of a new working time definition, with no derogations and opt-out possibilities, will have great implications. Finally, Poland is a

former communist country situated in Eastern Europe that is a new member of the EU. The working time in Poland is rather long compared to other Member States. It is the largest of the new Member States and has a fairly developed market compared to the other new ones. Moreover, it automatically has greater influence within the EU due to the fact that it is the most populated new Member State.

## 2.2 Research Techniques & Instruments

The Internet was used as a starting point to find the relevant information regarding the topic. Articles from the webpages: Europa and EURES have been used to compare and describe different working environments in each country. Various information regarding the three countries is also based on the usage of secondary data. Working time trends in both Denmark and the UK are accumulated from a book by Golden & Figart (2000). The corresponding information for Poland is acquired via the Internet; it is also used to supplement the Golden & Figart (2000) data for the other two countries. The OECD Employment Outlook and the European Industrial Relations Observatory (EIRO) are exploited to obtain both quantitative and qualitative data. Thus, quantitative as well as qualitative methods are applied, although the emphasis is on the latter.

The data collected are mostly in English, but some in Danish. As a result, due to language barriers, important data in Polish might be absent. More amount of data was retrieved for the UK, simply because the language used was mainly English, when conducting the information search. Another factor contributing to more UK data, is that the country is experiencing many problems with regards to the WTD. Hence, the information content of this research might be biased towards the UK. Websites such as EURES, Europa and EIRO are considered to provide reliable information. The same applies to the OECD data. Case studies conducted by other authors are used, but only after evaluating the source.

## 2.3 Human Resource Management & Culture

Various HRM articles/books are utilized in the theoretical part (Chapter 7), especially those that focus on HRM in general, internationally and on the European level. As previously mentioned, the weight is on the four major HRM functions: selection, rewards, appraisal and development. These functions are chosen as they are believed to sufficiently indicate how a change in working time will influence HRM.



Hofstede's four dimensions are employed to shed light on the national culture in each country. Hofstede's model is applied as it is the most widely used to compare cultural values. It is based on numerous studies conducted by Hofstede in the area of management. Discussions and applications regarding this model/theory are mainly based on Hofstede's article: *Cultural Dimensions in Management and Planning* (1984) and his webpage (Hofstede, 2003). As a result, the cultural perspective considered is from a national/social point of view.

## 2.4 EC Law

This thesis centers on issues presented in a secondary EC legislation, i.e. The Working Time Directive 1993/104/EC. More precisely, on a new working time definition, recently defined in the SIMAP and Jaeger cases. The WTD and the case law were obtained through the webpage Europa. Hence, certain law aspects are used to analyze the situation. The WTD is described and the most important articles in the Directive are described. An emphasis is made when looking at the articles about derogations and opt-out possibilities as these are essential with regards to a strict 48h working week. National legislation is considered for each country to reveal the level of difficulty when adhering to the WTD. To obtain information regarding national legislation reports from the EIRO and EURES webpages were mostly used. Thus reports which considered each countries legislation were used instead of going directly into each countries national legislation. This should provide an insight to the problems that have arisen regarding WTD and HRM. In addition, national culture theory is applied to reveal how working time is shaped by national culture.

As the title of this work suggests, it focuses on the effect on HRM due to a change in working time. To be more specific, three EU countries are investigated in order to infer how this influences countries within the EU in general. The deliberation is carried out from a general point of view, although some sectors will be exposed more to changes in the definition of working time than others. Since the case laws considered apply to medical doctors, this profession will be used as an example.

To summarize, the subject has been selected and introduced in the previous two chapters. The problem specification and the purpose have been stated, as well as the demarcations and the thesis outline. This should be sufficient to provide the reader with basic information regarding the selected topic. The next chapter deals with working

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time; a general definition is introduced and details disclosed for each country to be explored.

# Chapter 3

## Working Time

Working time shapes people's lives in many ways and "*... it is all at once a source of income, personal identity, and relative status within society, the workplace and household, and a constraint on individuals' ability to pursue self-directed activities and social reproduction*" (Golden & Figart, 2000:3). It is influenced not only by cultural norms, but also by economic factors. In recent years, working time has been a subject of change, depending on the economic, technological and cultural factors of each country (Golden & Figart, 2000:3). It varies between countries, how deep working time is embedded in their culture. In addition, working time influences how HRM functions are designed; if working time is modified, these functions might have to be re-designed to focus on new labour demands from organizations.

Kodz et al. (1998:21) have defined working long hours "*... as working excessive hours on a continual and constant basis, rather than occasional peaks to meet specific deadlines.*" Furthermore, they discuss the reasons for a long working time: workload, culture, individual commitment to the job and a need to improve pay. A recent study conducted by the European Foundation (Bielenski et al., 1998:1) has demonstrated that EU labour, working long hours, state a strong preference for cutting down their working time. There is also a correlation between the level of education and working long hours: the higher the education, the longer the working hours. It is mainly a workforce like managers and professionals that are experiencing long working hours.

Working time in most of the EU has been decreasing<sup>1</sup> throughout the 1980s and 1990s (Golden & Figart, 2000:38). The current situation of both collectively agreed working time and actual/usual working time throughout the EU is displayed in Tables 3.1 and 3.2.

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<sup>1</sup>It should be noted, however, that OECD stated in 1998 that unpaid overtime had been increasing, which is explained by an increasing proportion of the workforce being self-employed (Golden & Figart, 2000:42).

Country	Hours	Country	Hours	Country	Hours	Country	Hours
Bulgaria	40.0	Romania	40.0	Portugal	38.5	Denmark	37.0
Estonia	40.0	Slovenia	40.0	Belgium	38.0	Netherlands	37.0
Greece	40.0	Ireland	39.0	Cyprus	38.0	France	35.0
Hungary	40.0	Luxembourg	39.0	Czech Rep.	38.0	Norway	37.5
Latvia	40.0	Sweden	38.8	Italy	38.0	EU15+Norway	37.9
Lithuania	40.0	Slovakia	38.8	Germany	37.6	Whole EU	38.6
Malta	40.0	Austria	38.5	Finland	37.5		
Poland	40.0	Spain	38.5	UK	37.2		

Table 3.1: *Average collectively agreed normal weekly hours in 2004. Source: EIRO (2004a:2).*

The working time reductions have mostly been forced on industry businesses, through collective agreements between unions and employer’s associations (legislations are also involved in this process) (Golden & Figart, 2000:53). Different infrastructures and interests across EU countries, as well as their social and labour market conditions, has resulted in dissimilar developments. As an example, collective bargaining has influenced developments in Denmark to a much greater extent than in the UK. It is also worth mentioning that working time and work patterns are not the same for diverse sectors and industries; e.g. medical doctors, generally ‘burdened’ with long hours, will be strongly influenced. All three countries analyzed in this work, tend to deal with a shortage of such skilled workers, by introducing overtime.

Work intensity has been increasing throughout the EU during the past decade and is not showing any signs of decreasing. Workers are perhaps working fewer hours, but the speed of the work is increasing. This influences the health and safety of workers. Therefore, it is important to bring in legal provisions, such as the WTD, to protect workers in today’s society. Kodz et al. (1998:ix) state that the consequences of a long working time are the following: “*increased sickness absence, low morale and high turnover, lower productivity and quality of work outputs, greater health and safety risks, adverse impacts on family and social life, and community activities, reduced employment opportunities for those unable or unwilling to work long hours.*” How can this issue be tackled successfully? By changing the work patterns, a step that the EU has been trying to implement with the WTD, e.g. annualized hours, revised scheduling and rotation schemes, flexible working arrangements and job redesign. Furthermore, Kodz et al. (1998:x) have suggested that a change in the company culture and individual behaviour could help. For example: change in attitude of the top management, make workers aware of that the working day is over after, e.g. 8h of working, and stress the issue of going home at that

Country	All	Women	Men	Country	All	Women	Men
Latvia	43.3	42.2	44.3	UK	43.1	40.4	44.6
Romania	41.8	41.4	42.1	Poland	41.5	39.6	43.2
Czech Rep.	41.4	40.5	42.2	Slovenia	41.4	40.9	41.9
Estonia	41.1	40.4	41.8	Greece	41.0	39.6	41.9
Hungary	41.0	40.2	41.6	Bulgaria	40.9	40.7	41.1
Malta	40.8	38.8	41.7	Slovakia	40.5	40.0	40.9
Spain	40.3	39.4	40.9	Portugal	40.1	39.2	40.9
Austria	40.0	39.9	40.1	Cyprus	40.0	39.6	40.5
Sweden	39.9	39.6	40.1	Luxembourg	39.8	38.6	40.3
Germany	39.6	39.0	40.0	Ireland	39.5	37.7	40.6
Lithuania	39.4	38.6	40.1	Denmark	39.2	37.7	40.1
Finland	39.2	38.2	40.1	Belgium	39.0	37.7	39.6
France	38.8	37.7	39.6	Netherlands	38.8	38.0	39.0
Italy	38.7	36.6	39.9	Norway	38.6	38.0	39.0
EU25	40.2	38.9	41.0	EU15	40.0	38.7	40.8

Table 3.2: *Actual/usual hours worked per week for full-time employees in 2003. Overtime and absence is included in these numbers. Source: EIRO (2004a:11).*

time point. Working long hours has been more evident in certain sectors than others. Work pressure is due to heavy workloads, fewer staff and tighter budgets, strong commitment towards your job, colleagues, customers and/or clients (Kodz et al., 1998:x).

### 3.1 Denmark

Working time<sup>2</sup> is different in all three countries in this research. Collectively agreed normal weekly hours in 2004 were 37h in Denmark; it has the shortest working time of the three countries (Table 3.1). Collective bargaining between unions and employers' associations has been apparent on the Danish labour market as can be seen in Table 3.3.

The actual/usual weekly working hours reflect more accurately the real hours people work during the week (Table 3.2). These numbers include factors such as overtime and absence from work<sup>3</sup>. EIRO (2004a:11) states that Danish employees work the fewest hours among the three countries compared, i.e. 39.2h (women: 37.7h and men: 40.1h).

<sup>2</sup>When defining working time, various problems arise, such as: (1) The existence of different ways of calculating working time, with annual rather than weekly calculation. (2) Working time reductions in some countries are introduced with extra days off or cuts in annual hours. Hence, the normal working week is relatively unchanged. (3) Different roles of collective bargaining and legislation. In some countries, legislation is a safety net but in others it has impact on the actual hours worked. (4) There is an increasing use of schemes whereby weekly hours may vary considerably with respect to a reference period. In addition, when calculating normal weekly working hours, another problem arises as well: some countries do not take into account overtime or the length of annual and other forms of leaves (EIRO, 2004a:1).

<sup>3</sup>However, problems regarding different definitions of weekly hours should still be kept in mind.

Country	Percentage	Ranking
Denmark	80+	6
Poland	40+	16
UK	30+	18

Table 3.3: *Collective bargaining coverage in 2000. It measures how many salaried workers are subject to union-negotiated terms and conditions of employment. Source: OECD (2004:145).*

If a comparison is made between the collective bargained work hours and the actual hours, the difference is roughly 2h in Denmark. OECD (2004:42) has also calculated the actual hours worked and given a percentage of how many males and females work  $\geq 45$ h/week. These statistics are provided to support the EIRO statistics; in Denmark 18% of males work over 45h/week but 8% of the females<sup>4</sup>.

## 3.2 Poland

Collectively agreed working week in Poland consists of 40h (Table 3.1). The collective bargaining system in Poland is not very strong; it might deviate slightly from statutory agreements or just simply be the same. The collective bargaining situation is shown in Table 3.3.

Statutory maximum working week in Poland is 40h/week set by Polish law (EIRO, 2003:2). Since the statutory maximum working week hours are set by law, the difference between those and the actual weekly hours employees work, is less than in Denmark, or 1.5h. It has rarely occurred, that collective bargaining in Poland has introduced provisions more favourable to employees than their labour law (EIRO, 2004b:2). In the new Member States, including Poland, the average working week is longer than in the EU15. The actual/usual working week in Poland is 41.5h; women: 39.6h and men: 43.2h (Table 3.2). The OECD statistics (introduced in section 3.1) show that in Poland, 24% of males work  $\geq 45$ h/week while the fraction is 11% for females.

## 3.3 UK

Collectively agreed working hours per week in the UK, are similar to those in Denmark, or 37.2h (Table 3.1). However, collective bargaining is not very common in the UK (Table 3.3) and the UK labour market is quite different from the Danish one. The UK collective bargaining system is not strong, neither on a national level nor industry-wide

<sup>4</sup>The OECD numbers quoted in this work are from 2002.

(Golden & Figart, 2000:40). This has resulted in a relatively stagnant working time situation in the UK, compared to the on-going reduction and standardization in most other EU countries. The UK working time has not been decreasing since the early 1980s, unlike the trend in other EU countries. In fact, it has been on the increase despite a reduction in contractual working time. This is mainly due to an increase in overtime (Golden & Figart, 2000:40/179). UK legislators are seemingly not successful in implementing changes.

The UK employee actual/usual working week consists of 43.1h; women: 40.4h and men: 44.6h (Table 3.2). UK employees work the longest hours, compared to Poland and Denmark. In fact, only Latvia (43.3h) tops the UK in Table 3.2. A comparison between collective bargained work hours and the actual hours, shows that the difference is largest in the UK: 5.9h. In addition, the OECD statistics for the UK indicate that 40% (12%) of males (females) work  $\geq 45$ h/week. These results are striking and reflect UK's long hours and overtime culture. This is further backed up by examining the extreme working hours in the UK: 16% of the workforce carry out 48h/week, 8% 55h/week, 3.2% 60h/week and 1% over 70h/week. Approximately 46% of the workers that say that they work over 48h/week are covered by exemption; this group is in managerial positions (Europa, 2004:1–2). UK is the only country in the EU where working time has increased over the last decade (Golden & Figart, 2000:40/179). In conclusion, when comparing the OECD statistics (for 2002), it is clear that the UK working time is on the upturn.

### 3.4 Summary

The situation is different for the three countries. Working time can be defined by collective agreements and by actual/usual working hours per week. A difference between the two definitions does exist, with the magnitude difference depending on the country in question. The former does not reflect the actual status, while the latter is a much better measurement of what really takes place. Actual/usual working time is very high in the UK (43.1h), relatively high in Poland (41.5h) but very low in Denmark (39.2h). Legislation is an influential factor when it comes to working time. National legislation, as well as EC law (the WTD), has a different impact in each country. This will be discussed in more detail in the next chapter.





# Chapter 4

## EC Law

In July 1990 the Commission introduced the Working Time Directive. It was a part of their Action Programme plan, i.e. to implement the 1989 Social Charter<sup>1</sup>. It was originally mentioned in Article ex 118a EC Treaty<sup>2</sup>. Today, these provisions are in Title XI of the EC Treaty which includes social policy, education, vocational training and youth. These articles influence the enforcement of the WTD. These provision also affect the way HRM is conducted throughout the EU.

Article 249 of the EC Treaty states that a Directive is binding on Member States as to achieve the results, however the Member States can by themselves choose the method of implementation. In more detail Member States can decide whether they achieve the means of the Directive by implementing laws, regulations or administrative provisions or collective agreements. The national governments of the Member States must guarantee that the Directive's requirements are fulfilled at all times.

The UK only signed the Social Charter in 1997. Thus, not surprisingly, they will experience more problems when implementing the WTD. In Poland when they accessed the EU they implemented the WTD with no reservations and did not ask for transitional periods. In Denmark the implementation of the WTD was an easier step since they had signed the Social Charter and were already working fewer hours per week than both the UK and Poland.

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<sup>1</sup>The Social Charter is a so-called "social dimension of the single market". It was adopted so that fundamental social rights would not be jeopardized because of increased competition within the single market (Europa, 2005)

<sup>2</sup>Article 117-120 of the EC Treaty were replaced by Articles 136 EC to 143 EC.

## 4.1 Working Time Directive

Working time has been an important issue in EU's social policy and finally with the WTD they imposed on Member States a mandatory regulation which has binding effects. Countries in the EU took the new legislations differently, which did not surprise anyone since the legal framework in the EU countries regarding working time has been quite different. For example, the UK Conservative Government was very much opposed to the draft of the directive; they wanted to keep the flexibility on the UK labour market, which had existed there for a long time (Hall & Sisson, 1997:2). The flexibility, which had existed because of no legislation regarding working time. Finally, on 23 November 1993 all countries in the EU implemented the provisions except the UK, it abstained (Hall & Sisson, 1997:2). At that point, national authorities had to have law, regulations and administrative provisions in order or to have established collective agreement procedure. National governments had to see to that the Directive was fulfilled at all times.

The Working Time Directive 93/104/EC of 23 November 1993 (which was amended by Directive 2000/34/EC) lays down requirements which organizations have to comply with to improve the safety and health of workers. The aim of the Directive is to lay down ground rules that employers have to follow which are: minimum rest periods of 11 consecutive hours, rest breaks when the working day is longer than 6 hours, one day a week off, four weeks of paid annual leave, an average of no more than 8 hours of work at night in any 24-hour period and finally a maximum 48 hours a week, including overtime. Under the WTD it was mandatory for the Commission to make a report on the implementation of the opt out and the reference periods by 23 November 2003. What is currently under revision is the: length of reference periods which are used when calculating working time, definition of working time, the opt-out possibility and finally how the Directive should be applied as a tool for reconciliation of work and family life (Europa, 2004:2–3). These are all doubts that have arisen regarding the WTD. WTD articles, important with regards to a change in working time, will be outlined in the following paragraphs.

Article 1 (WTD 93/104/EC) says that this directive applies to all sectors, i.e. both public and private (industrial, agricultural, commercial, administrative, service, educational, cultural, leisure, etc.). The sectors that were excepted from the provisions of the directive were: sea, rail, road, sea, inland waterway, and lake transport and sea fishing. Doctors in training used to be included as an exception however, now they are no longer

an exception.

Article 2 (WTD 93/104/EC) includes the definition of working time is which is: “*working time shall mean any period during which the worker is working, at the employer’s disposal and carrying out his activity or duties, in accordance with national laws and/or practice*” Rest period is then defined as “*... any period which is not working time.*”

Article 5 (WTD 93/104/EC) states that weekly rest period and each seven-day period, every worker shall have a minimum of uninterrupted rest period of 24 hours plus 11 hours of daily rest. Usually, that refers to Sundays. However, if for “*... objective, technical or work organization conditions so justify, a minimum rest period of 24 hours may be applied.*”

Article 6 (WTD 93/104/EC) states which is the maximum weekly working time and that Member States have to take necessary measures to protect the safety and health of workers as is stated in the article: “*... the period of weekly working time is limited by means of laws, regulations or administrative provisions or by collective agreements or agreements between the two sides of industry; 2) the average working time for each seven-day period, including overtime, does not exceed 48 hours.*”

Article 16 (WTD 93/104/EC) regards reference periods that Member States may lay down for: 1) weekly rest periods (Article 5) Member States may lay down a reference period not exceeding 14 days; 2) maximum weekly working time the reference period can not exceed four months; 3) regarding length of night work (Article 8): “*... a reference period defined after consultation of the two sides of industry or by collective agreements or agreements concluded between the two sides of industry at national or regional level. If the minimum weekly rest period of 24 hours required by Article 5 falls within that reference period, it shall not be included in the calculation of the average.*”

#### 4.1.1 Derogations: Article 17 of the WTD 93/104/EC

In Article 17 of the WTD there are four sub-articles<sup>3</sup> that include certain exceptions that can be regarded as derogations from the WTD. If someone wants to derogate from reference periods they are limited by Article 17(4).

Sub-article 1 includes certain employees that can be derogated who are: managing executives or other persons with autonomous decision-taking powers; family workers; or workers officiating at religious ceremonies in churches and religious communities.

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<sup>3</sup>Sub-article 4 of Article 17 is the most important one for this thesis.

Those employees can be excluded from what the WTD states about: daily rest, breaks, weekly rest period, maximum weekly working time, length of night work and associated reference periods.

Sub-article 2 regards derogations from the WTD which can be adopted by laws, regulations, administrative provisions or by collective agreements. However, the worker has to get periods of compensatory rest, if that is not possible for objective reasons the worker has to be afforded appropriate protection. The derogations within this category are from those provision of the directive regarding: daily rest, breaks, weekly rest periods, length of night work and associated reference periods in the cases of:

- activities where the worker's place of work and his place of residence are distant from one another;
- security and surveillance activities requiring a permanent presence in order to protect property and persons, particularly security guards and caretakers or security firms;
- activities involving the need for continuity of service or production, particularly: services related to reception, treatment and/or care provided by hospitals or similar establishments, residential institutions and prisons; dock or airport workers, press, radio, television, cinematographic production, postal and telecommunications services, ambulance, fire, and civil protection services; gas, water, electricity production, transmission and distribution, household refuse collection and incineration plants; industries in which work cannot be interrupted on technical grounds; research and development activities; agriculture;
- activities where there is a foreseeable surge of activity, particularly in: agriculture, tourism and postal services;

Furthermore, derogations regarding the same provisions of the Directive are also allowed:

- in the same circumstances described in Article 5 (4) of Directive 89/391/EEC the health and safety Directive, i.e. because of unusual and unforeseen circumstances, beyond the employer's control, or to exceptional events, the consequences of which could not have been avoided despite the exercise of all due care; and in cases of accident or imminent risk of accident;

Finally, derogations can be allowed from the Directive's provision on daily rest and weekly rest periods:

- in the case of shift work activities, each time the worker changes shift and cannot take daily and/or weekly rest periods between the end of one shift and the start of the next;
- in the case of activities involving periods of work split up over the day, particularly those of cleaning staff.

Sub-article 3 includes derogations which are allowed to be made from the Directives provisions on daily rest, breaks, weekly rest period, length of night work and associated reference periods with collective agreements or agreements made by both sides of the industry at national or regional level. This has to be done in conformity with the rules laid down by those agreements. In Member States where there is no such framework agreements at the appropriate collective level are allowed in countries without statutory system of collective agreements at national or regional level. These derogations are only permitted if the workers concerned get compensating rest periods and if that is not possible than that they are afforded appropriate protection.

Sub-article 4 includes the option to derogate from the 4-month reference period in respect of the 48 hour maximum working week can not have a reference period longer than six months. Still, member states have the option to allow collective agreements to set a reference period of up to 12 months (Article 17, WTD 93/104/EC).

#### 4.1.2 Opt-Out: Article 18 of the WTD 93/104/EC

To be able to opt out, certain conditions have to be fulfilled which are outlined in the sub-articles of Article 18<sup>4</sup>.

Sub-article 1: says that Member States have to adopt the laws, collective agreements, regulations and administrative provisions which are necessary to comply with the Directive at all times. Still, Member States have the option of not applying maximum weekly working time if they respect the health and safety of workers and ensure that: employees are not required to work more than 48h/week, that can only be done if the consent of the employee is obtained; that the employee is not a subject to any detriment if he is not willing to give his consent; employee does not work more than 48 hours over

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<sup>4</sup>Sub-article 18(1)(b)(i) is most important one of Article 18 for this thesis.

a seven day period which has to be calculated over a reference period not exceeding four months, without having a consent from the employee (Article 18(1)(b)(i)).

Sub-article 2: Member States which adopt measures as, mentioned in sub-article 1 shall contain reference to this Directive.

Sub-article 3: Member States can implement different legislative, regulatory or contractual provisions regarding working time however they have to comply with the Directive.

Sub-article 4: Member States should communicate national legislation regarding working time already adopted and the one being adopted within the scope of this directive.

Sub-article 5: practical implementation of the provision of the directive shall be reported to the Commission every 5 years.

Sub-article 6: every 5 years the Commission submits to the European Parliament, the Council and the Economic and Social Committee a report regarding the application of this Directive with a consideration of paragraphs 1, 2, 3, 4 and 5.

Thus the main conditions for opting out are that the worker must agree to work more than 48h/week. Workers should not experience disadvantage if they decide not to opt out. Records must be kept up to date regarding workers who opt out. Finally, these records must be available at all times to the competent authorities because they can forbid working time above the 48 hours because of health and safety reasons.

Currently, there are concerns that the opting-out possibility is being misused as mentioned previously, especially in the UK. It appears that workers do not have a choice when asked to sign an opt-out agreement. Therefore, the possibility of an individual opt out is currently being reviewed. This is an important point when considering the health and safety of workers since it might not be fulfilled with the possibility of opt out. Recent judgments, i.e. SIMAP and Jaeger regarding time on-call, result in Member States viewing the opting out as a possibility to prevent the problems which have arisen by the new working time definition. According to suggestions for new amendments, which are currently being worked on, the possibility that workers can write an opt out agreement would then be erased from the directive<sup>5</sup>.

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<sup>5</sup>The possibility of opting out by signing agreement by the employee was failed by majority voting on the European Parliament on 12 May 2005.

## 4.2 Case Law

The two recent cases, i.e. the SIMAP and the Jaeger case both concern the health care sector. In both cases the European Court of Justice (ECJ) reached the conclusion that time spent on call was working time. The judgments will mostly influence the health care sectors. Member States have differed how they have put the definition of working time into their legislation. Thus sometimes the working time definition was guarded by collective agreements between employers and employees. However, some Member States simply excluded time on-call from the definition of working time.

### 4.2.1 The SIMAP Case

This case<sup>6</sup> is originally from Spain it regards the definition of working time. The objective of the WTD is to see to that the safety and health of workers is ensured as far as possible. The Spanish court wanted a clarification of whether time spent on-call by doctors should be considered as working time or overtime within the meaning of the WTD (COM 2003 843 final:17). The Court answered the question in the following way: “... *time spent on call by doctors in primary health care teams must be regarded in its entirety as working time and, where appropriate as overtime, within the meaning of Directive 93/104 concerning certain aspects of the organization of working time, if they are required to be at the health center. If they must merely be contactable at all times when on call, only time linked to the actual provision of primary health care services must be regarded as working time*” (Judgement of the Court, point 52). Furthermore, “... *that to exclude duty on call from working time if physical presence is required would seriously undermine that objective*” (Judgement of the Court, point 49). If doctors are required to be present and available at the work place and are therefore obligated to offer their professional service, they must be considered to be working was the judgment of the court. It is also important to note the fact which was mentioned in the Judgement, point 73 that it is not enough that trade-union representatives give consent on the behalf of workers, when opting out, the individual worker has to do that himself/herself.

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<sup>6</sup>Sindicato de Medicos de Asistencia Publica (SIMAP) v Conselleria de Sanidad y Consumo de la Generalidad Valenciana, Case-303/98.

### 4.2.2 The Jaeger Case

In this German case<sup>7</sup> the ECJ had to give a ruling on the definition of working time and rest periods. As provided in Article 2 of the WTD working time means “... *any period during which the worker is working, at the employer’s disposal and carrying out his activity or duties, in accordance with national laws and/or practice.*” Rest period is defined in Article 2 of WTD as “... *any period which is not working time.*” The problem in this case was whether or not doctors were required to be physically present at the hospital. The German Court asked “... *whether on-call services should be considered in their entirety as working time, even if the party concerned does not in fact perform his professional duties but is authorised to sleep during the time concerned*” (COM 2003 843 final:18). The Jaeger case is quite similar to the SIMAP case, however, the Spanish court did not ask whether doctors performing on-call duty were required to be present in the hospital and whether they could rest/sleep when their service was not required. This exact question was not asked by the Spanish Court for the ECJ.

What was essential in this case was what the ECJ said about interpreting the definition of working time and rest period. ECJ clearly states in points 58 and 59 of the judgment that these concepts have to be defined within the scope and purpose of the WTD. These concepts can not be defined in accordance with various legislations of Member States. They are concepts of Community law and belong to the WTD. When interpreting definitions it has to be done in a way to secure the efficiency of the WTD. “*Accordingly, the fact that the definition of the concept of working time refers to ‘national law and/or practice’ does not mean that the Member States may unilaterally determine the scope of that concept. Thus, those States may not make subject to any condition the right of employees to have working periods and corresponding rest periods duly taken into account since that right stems directly from the provisions of that Directive*” (Judgement of the Court point 59). The fact that the hospital offers their doctors to rest during their working time does not change the conclusion that when resting in hospitals it is regarded as working time. The doctors are still required to be present at the hospital itself, they have to be available to perform their services immediately if the need comes (Judgement of the Court, point 63–64).

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<sup>7</sup>Landeshauptstadt Kiel v Norbert Jaeger, Case-151/02.



### 4.2.3 Impact of Case Law & Definition of Working Time

According to Article 2 of the WTD working time is defined as following: “*any period during which the worker is working, at the employer’s disposal and carrying out his activity or duties, in accordance with national laws and/or practice*”. Rest period is defined as: “*any period which is not working time*”. Before the SIMAP judgment periods of inactivity, when doctors were on-call, were not defined as working time in most Member States. Traditionally, if national legislation does not contain any definition of working time or rest period, collective agreements and/or case law define these concepts (COM 2003 843 final:19). Nevertheless, when neither national legislation nor collective agreements do define rest periods requiring physical presence, it will be problematic. Countries that do not define rest periods that already require physical presence in their national definition of working time, will be more likely to experience the impact of those two cases (COM 2003 843 final:19). The implications of these judgments will mostly be felt in the health sector, however, not exclusively.

A maximum of 48h/week and a new definition of working time means that more doctors have to be recruited. National governments have acknowledged the increase financially, however they need qualified candidates (COM 2003 843 final:20). Here, Article 18(1)(b)(i) might become heavily applied by Member States to avoid these problems, i.e. if the employee is willing to give his consent. To solve the problem, hospitals might have to start employing self-employed doctors, which would fall outside the WTD. Therefore, the aim of the Directive, which is to guard the health and safety of workers, would not be fulfilled. Governmental bodies would then simply be going around the WTD.

## 4.3 National Law - Working Time

### 4.3.1 Denmark

Statutory agreements have not been common in Denmark and the working time per week is not bound by statutory agreements. Most collective agreements include a provision that a normal working week is 5 days with a rest period of minimum 11h/day as is stated in the Act of Working Environment. Today, there exists a statutory limit, which was implemented according to the WTD, which is 48h/week. The WTD works as a safety net around Danish working time legislation. The agreed working time of full-time workers in Denmark was decided in 1990 by collective agreements which is 37 hours at national level (Box 4.1), with a reference period from 1 month to 12 months, depending

on sector and local agreements. Collective agreements cover 85% of the overall worker agreements in Denmark. Employees and employers which are outside these collective agreements still have to respect the 37 hours working time per week (Jørgensen, 2003:3). From the rules and national law outlined above certain occupational groups have been excepted. Managerial employees both in the private and the public sectors have been excepted. Thus there are no limits of how many hours they can work which is provided for in their contracts with their employers. This is allowed because the managers are believed to be compensated in wages and that it comes with the responsibility of the job in question. When considering working time and overtime in Denmark definitions of those concepts are provided for in collective agreements made for each sector. Thus there are no legal provisions about overtime, collective agreements deal with this issue (EURES, 2005). Collective agreements sometimes allow the worker to choose whether he receives payment for his overtime or whether he/she gets the same amount of time worked off. Further, some collective agreements state that: “... *only those hours worked in excess of the normal working week can be considered as overtime, while others say that overtime includes all hours worked in excess of the normal working day*” (EURES, 2005). If the overtime is paid it is at between 50% to 100% extra on one’s hourly salaries (EURES,2005). Lastly, in 1987 a weekly upper limit in maximum working hours disappeared for employees working in the public sector.

Box 4.1: *Principal features of overtime schemes for Denmark, Poland and the UK in 2003.*  
 Source: *EIRO (2003:4–6).*

**Maximum working time\* (minimum daily rest period, with no maximum daily hours)**

Denmark: 48h/week (11h)

Poland: 40h/week or 10h/day

UK: 48h/week (11h)

**Threshold marking beginning of overtime\*\***

*Method of setting threshold*

Denmark: Agreements (at sector or company level)

Poland: Legislation

UK: Agreements (company-level)

*Threshold level*

Denmark: 37h/week (industry sector agreement)  
 Poland: 8h/day or 40h/week (over a 5-day week)  
 UK: Varies between (company-level) agreements

**Specific maximum overtime limits**

Denmark: 12 hours over 4 weeks (industry sector agreement)  
 Poland: 4 hours per day or 150 hours per year  
 UK: None, but overall statutory weekly working time limits  
 (from which individuals may opt out).

**Conditions for use of overtime (procedures, justifications)**

Denmark: Notice period required (industry sector agreement)  
 Poland: Permitted only on specific grounds (e.g. employers' special  
 needs or rescue operations), monitored by the authorities.  
 UK: No conditions

**Enhanced pay rate and/or time off in lieu**

Denmark: Companies with agreement - increased pay rate, then time off  
 in lieu for overtime hours over a threshold (8 hours in 4 weeks in  
 industry sector agreement). Companies without agreement -  
 mostly time off in lieu.  
 Poland: +50% pay rate for the first 2 hours, +100% for further hours (and  
 work at night, on Sunday and holidays. May be converted into time  
 off in lieu at request of employee and with employer's agreement  
 UK: Increased pay rate or time off in lieu, by agreement

\*It is described (maximum or standard) in more detail in the national regulations

\*\*Threshold beyond which increased pay rate or time off in lieu for overtime begins,  
 either called 'maximum working time', or the 'statutory period', or equivalent to the  
 collectively agreed working hours, depending on the country.

**4.3.2 Poland**

Polish law regarding working time are set out in the Polish Labour Code. Working time per day is maximum 8 hours and the average five day working week is 40 hours. The reference period can not exceed 4 months. Sometimes the 24-hour measurement of working time can be extended. The maximum hours a person can work during a week, including overtime, is 48h/week taking into consideration accepted reference

periods (Box 4.1). It is obligatory that each worker gets a rest of 11 hours each 24 hours and 35 hours in each week. Overtime hours can not exceed 150 hours taking into consideration the calendar year for each worker (EIRO,2003:4-6). Overtime should be paid or by giving the worker a time off in lieu. “*Work during overtime hours is work carried out beyond the employee’s obligatory working time limits, and also work carried out beyond the extended 24-hour working time limit in the case of a necessary rescue operation in order to protect human life or health, to protect property or environment, or to repair a breakdown, or in the case of specific employer requirements*” (EURES, 2005). When Poland joined the EU they adopted the WTD with no reservations and with no transitional periods. They transposed the Directive directly into its Labour Law Act.

### 4.3.3 UK

The little legislation that has ever existed regarding working time in the UK was removed in the 1980s and 1990s (Kodz et al., 1998:25) by the Conservative governments in power with their deregulatory policies. In the UK, working time had not been regulated for a long time, which explains why UK is experiencing problems with respect to the WTD. Over the last decade there has been a fall in collective bargaining (Kodz et al., 1998:8). Thus working time in Britain had not been regulated for a long time that explains why UK is experiencing problems regarding the WTD. Bargaining among sector differs widely since there has not existed any legislation or agreements on a national level. Still, some standardization came into force in 1998 with the Working Time Regulations introduced by the WTD. Which is the first regulation to be introduced in the UK for a long period (Arrowsmith, 2003:3) In the UK there are no generally accepted standard provisions concerning annualized or seasonal working time patterns. Overtime in the UK is usually agreed on in voluntary agreements by employees. Whether working time is perceived as overtime is a subject to certain rules (Arrowsmith, 2003:3). The collective bargaining that occurs in the UK is at the company level or even at a lower level (site/workplace) (Box 4.1). Annual hours are negotiated with trade unions (EIRO, 2003)

## 4.4 Summary

Improvement in the health and safety of workers came first on the surface with EU’s Action plan with, i.e. with the implementation of the Social Charter. The WTD includes legal provisions to improve the health and safety of workers in the EU. The WTD was

adopted by the EU Council of Ministers on 23 November 1993 and then all Member States had to implement it. However, the UK abstained and was required to implement it by 23 November 1996 which they failed and then they finally implemented it in 1997. Poland implemented the WTD on 1 May 2004 when they joined the EU. Today, the WTD is currently being revised since there have arisen some doubts regarding certain provisions, especially the possibility to opt out and to derogate. These two provisions can act as loopholes with a change in the definition of working time which has been decided on in the two recent case law, i.e. SIMAP and the Jaeger case. The change in the definition of working time will mean that organizations will experience problems. That however, depends on their current national legislation. The national legislation in the three countries is quite different. In the UK there is no legislation, then in Denmark working time is set by collective agreements and in Poland with national law. Thus Denmark and Poland, which already have rules and regulations, are bound to be in a better situation than the UK.

All the three countries have different national legislation and national culture which has shaped working time in different ways. What is considered an optimal working time in one country might not be so in another country. Therefore, the WTD or the change in working time will have different implications in all the three countries, depending on national culture. In the next chapter national culture will be described and discussed.



# Chapter 5

## National Culture

Every country has its own unique national culture. It has been defined by various scholars. Many of them agree that national culture is based on the values and attitudes of people. Hodgetts & Luthans (1994) argue that culture is: (1) learned when growing and by experience; it is acquired through socialization; (2) shared within a group; (3) transgenerational, hence it passed on from one generation to the next; (4) patterned and structured; (5) adaptive, i.e. it changes over time and is responsive to stimulæ. According to Hofstede (2003), culture is based on people's values, beliefs and assumptions. Hofstede is considered to have made the greatest contribution when comparing national culture. His model will be described in more detail in the next section, and subsequently applied to each country. Other authors have also introduced models to analyze national culture. Trompenaars conducted a national culture research that included a sample from over 20 countries. He focused on the aspects of culture that included: (1) attitude towards time, nature and the environment; (2) attitudes towards groups, individuals and how people deal with each other; (3) how cultures award status to each other. To reach a conclusion on how certain countries measured against these three aspects of culture, he used the following dimensions: (1) universalism vs. particularism; (2) individualism vs. collectivism; (3) neutral vs. affective; (4) specific vs. diffuse; (5) achievement vs. ascription (Leat, 1998:5-6)<sup>1</sup>.

National culture reflects national values, e.g. in national legislation (Hofstede, 1980). Different national cultures call for different HRM. Cultural norms appear to be diversified in the three selected countries. Their working hour requests are different: while one culture values leisure time, e.g. family holidays, meal times and days off, others prefer to earn more and receive a status within the society.

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<sup>1</sup>These dimensions will not be described in more detail; Hofstede's model is the main theory applied with regards to national culture.

Working time is influenced by each country's cultural norms (Golden & Figart, 2000:13). For example, there exists a "long hour culture" in the UK, i.e. historically, the workers are used to working long hours. There has neither been a strong level of national legislation nor collective bargaining in the UK. Thus, this has shaped the UK national culture. In Denmark, on the other hand, there is a tradition for working lesser hours. The atmosphere in Denmark is more relaxed. In Poland, the situation is more blurred, it has only recently joined the EU. Therefore, they have neither been obligated to follow the Social Charter nor the WTD for the same amount of time as the other two countries. However, their working hours tend to accumulate to an amount that lies somewhere between that of Denmark and the UK (Table 3.2).

## 5.1 Hofstede's Dimensions

Hofstede has defined culture as: "... *collective programming of the mind which distinguishes the members of one group or society from those of another*" (Hofstede, 1984:82). He introduced the concept of cultural dimensions where he categorizes culture under four terms: individualism versus collectivism; large versus small power distance; strong versus weak uncertainty avoidance; masculinity versus femininity.

**Individualism** refers to "I", where the individual takes care of his/her closest family only, i.e. loyalty to oneself and consciousness. Collectivism refers to "we": the individual takes care of his/her relatives and there is loyalty towards a group. In individualism countries, self-interest and self-actualization is important it motivates people. Their inhabitants value, to more extent, tasks over relationships with others. Their employment relationship is calculative, while it is normative or moral for citizens of collectivist countries. The society is loosely knit together in individualistic countries (Hofstede, 1984:83).

**Power distance** indicates how people accept power distribution in a society. Do they accept hierarchical order in the society, i.e. inequality, or do they want everyone to be equal? In countries with a high power distance, people accept inequality in power distribution within the society and workplace. The hierarchical order in a society is reflected in the distribution of income and wealth. Basically, if it is unequal it indicates a high power distance within the country (Hofstede, 1984:83).

**Uncertainty avoidance** reflects people's attitudes towards uncertainty and ambiguity. Countries with high uncertainty avoidance favour a rigid atmosphere. They



Country	Individualism	Power Distance	Uncertainty Avoidance	Masculinity
Denmark	74	18	23	16
UK	89	35	35	66
Poland	60	68	93	64

Table 5.1: *Hofstede's dimensions for the three countries analyzed in this thesis. The scale used to measure Hofstede's dimensions is from 0-100 Source: Hofstede (2003,1984:85).*

like order, safety, strict laws and rules, precision and clarity. On the other hand, countries with low uncertainty avoidance prefer a more relaxed atmosphere. They are more tolerant towards unknown things, i.e. people and factors that they do not understand. Therefore, security, stress and anxiety is not something they believe is worth emphasizing. This dimension, along with the power distance, shapes the way nations build up their infrastructure in institutions and organizations (Hofstede, 1984:83–84).

In **masculine** countries, citizens strive for achievement, heroism, assertiveness and material success. They like acquiring things, value achievement but abhor failure. Success and money are important in masculine societies. In feminine countries, people like caring for the weak, enjoy the quality of life and have a preference for relationships. They value affiliation and view failure as much less important (Hofstede, 1984:84). Table 5.1 and Fig. 5.1 show how the three countries score in Hofstede's dimensions.

## 5.2 Denmark

Denmark scores high in individualism which means that they prefer a loosely knit society. Danes tend to care for themselves and their closest family. The Danish national culture is considered open and informal, their power distance is low, everyone is equal. Danes are very relaxed which supports the fact that they have a weak uncertainty avoidance. For example, their working time is not guaranteed by any statutory national legislation but collective agreements. Finally, Danes score low in masculinity hence they thrive in a so-called “welfare society”, which is a fact. Working time in Denmark is among the shortest in the EU which can be explained by its feminine society compared to the UK and Poland, where people tend to work longer hours. Their national culture can be described as favouring short working hours. The Danes like leisure and the quality of life, caring for others, modesty and relationships, more than achievement, heroism, assertiveness and material success which describes the more masculine societies.

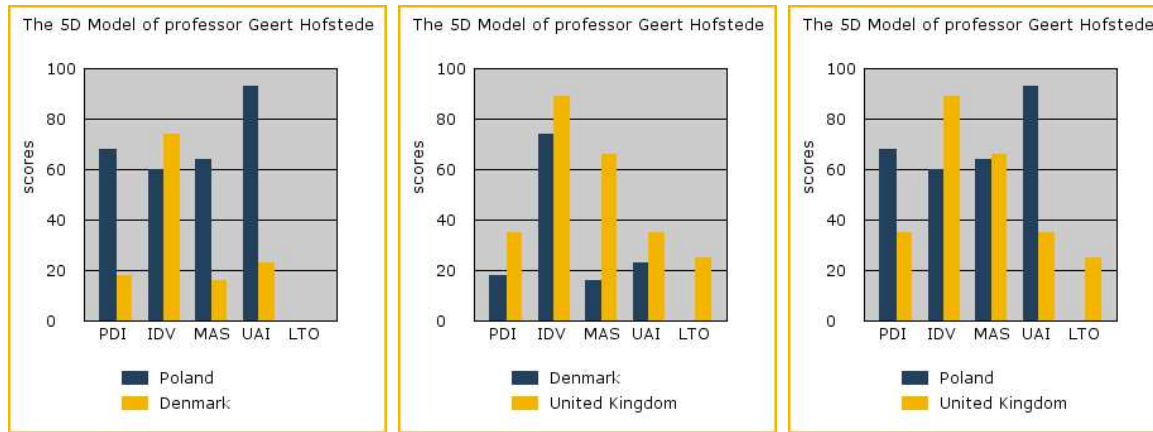


Figure 5.1: Comparison of Hofstede's dimensions for the three countries analyzed. PDI is the power distance, IDV the individualism, MAS the masculinity and UAI the uncertainty avoidance. LTO stands for long-term orientation, but is not discussed in this work. Source: Hofstede (2003).

### 5.3 Poland

Poland is said to be in cultural terms in a transition between the East and West and that it is open to foreign influences (Garavan et al., 1998:203). That has and will without a doubt help them to transit themselves towards other EU Member States. Poland scores lowest in individualism of the three countries, which is not surprising since they have recently conquered communism. Poles are more in-group and family orientated than Denmark and the UK. Their social framework is more tightly knit than especially in the UK. They score high in power distance hence they accept unequal distribution of power. Their national culture is bureaucratic and hierarchical, they do not like uncertainty and ambiguity. They want their society to have rigid codes of believe and behaviour which might explain their statutory legislation regarding working time and the fact that they value health and safety. Poland scores higher than Denmark in masculinity which is explained by the fact that there still exists a social differentiation between the sexes. Polish males are given the more outgoing, assertive roles than Polish women. Masculinity can also explain the fact that they tend to work long hours as the Brits.

### 5.4 UK

UK scores very high in individualism which explains UK's loosely knit social framework. UK's infrastructure throughout the years has been shaped by more freedom than in many EU countries. They have low power distance but still higher than Denmark,

they do tolerate more unequal distribution of power than the Danes and accept some hierarchical order in the society. Regarding uncertainty avoidance they score much lower than Poland but a little bit higher than Denmark. This indicates that people in the UK do like uncertainty and ambiguity, e.g. there exists no legislation regarding working time. That can also be explained that national authorities have not wanted to put any constraints on the society. Therefore, UK is experiencing most problems of the three countries regarding the WTD, they are not used to be bound by rules and regulations. Finally, the UK scores highest among the three countries in masculinity which explains the nations preference for achievement, heroism, assertiveness and material success. The Brits are willing to sacrifice health and safety for the before mentioned factors. Their willingness to sacrifice health and safety can also be explained by the UK's low score in uncertainty avoidance. In the UK there exists long hours culture which is believed to be a sign of employees' commitment. This might explain why working long hours is a common practice in the UK. If workers are not willing to work long hours they are considered to lack interest in their work. The driving force of long working time cultures is competitiveness and job uncertainty (Kodz et al., 1998:1).

## 5.5 Summary

Hofstede's conducted the most acknowledged research of cultural values, which has been applied to describe the three countries national culture. All the three countries researched have different national culture. Polish employees, and especially employees in the UK, prefer to work long hours while Danes prefer to work short hours. How many working hours per week seem optimal or the norm is reflected in each countries national culture, which is shaped by the legislative framework of each country. Further, national culture and legislative framework also shapes human resource function in all countries. In next chapter the human resource theory will be described as to what possible influence a change in working time (legislation) will have on the four major HRM functions.



# Chapter 6

## Human Resources

HRM is a cycle of activities. It links together the organization's structure, strategy and its internal labour market. It is becoming increasingly recognized that the human resources are the most important assets an organization has. HRM in Europe is influenced by culture, ownership structures, labour markets, trade unions, the State and legal limitations regarding employment contracts. These forces are not seen as external forces in Europe they are seen as a part of the topic (Brewster & Larsen, 2000:16). This is especially true for the UK and Denmark, even though these forces will most likely become more important in Poland since now they have joined the EU. With the WTD the EU is imposing legislative provisions on countries regarding, health and safety, the working environment and working time. The legal provisions of the WTD will have implications on HRM in Europe. What influences HRM in Europe as well is the Social Charter of 1989 (Box 6.1) that promotes free movement of workers, fair pay, better living and working conditions. The Social Charter was signed by all Member States except the UK at the Strasbourg summit in December 1989. However, the UK signed the Social Charter in 1997. Brewster & Larsen (2000:26) have mentioned that European governments put more effort into influencing various aspects of HRM in their countries. They tend to spend more on training and development of their citizens, e.g. training for young workers.

Fisher et al. (2003:7) have defined HRM as: “...*involv[ment of] all management decisions and practices that directly affect or influence the people, or human resources, who work for the organization.*” In this paper the Tichy et al. HRM model will be applied then discussing HRM, which can be seen from Fig. 6.1.

Literature regarding HRM often assume that human resource management is the same throughout the world. Scholars often tend to forget the influence of national

culture on HRM (Garavan et al., 1998:201). Hofstede (1991) supported these statements when he showed that HRM practices reflect the country's national culture. Moreover, Brewster & Larsen (2000:35) say that culture, organizational size, national education system and the level of technology give an outline of what is an effective HRM. Next, the four major human resource functions, i.e. selection, appraisal, rewards and development will be described.

Box 6.1: *The major areas addressed by the Social Charter of 1989.*

- Freedom of movement.
- Employment and remuneration.
- Improvement of living and working conditions.
- Social protection.
- Freedom of association.
- Vocational training.
- Equal treatment for men and women.
- Information, consultation and participation of workers.
- Health protection.
- Protection of children, adolescents, elderly persons and disabled persons.

## 6.1 Selection, Promotion & Placement

Selection, promotion, and the placement process is when the company tries to match workforce to the jobs available inside the organization. The HRM department hires both employees outside the organization as well as moving employees internally to different positions, to find the right person for the job available (Tichy et al., 1982:51). When the managers decide whom to select, promote and where to place that employee, it is highly related to the human resource planning. This process has also to be considered with normal turnover, employees planned or predicted movements and retirement plans. It has to be considered with regards to other factors that influence the future of the organization. Such as the future demands of the organization: sale and production and an estimation the outside environment: technological changes, legislation changes, change

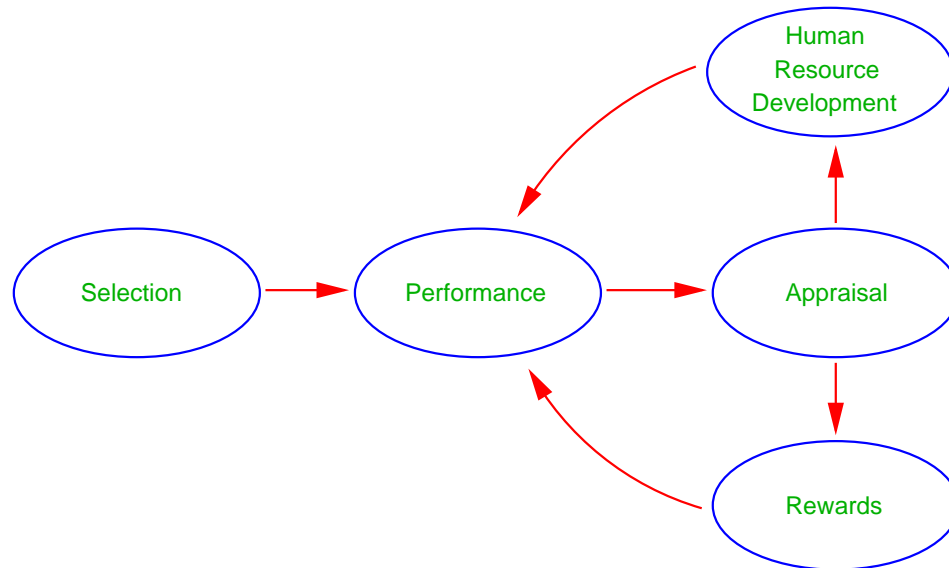


Figure 6.1: *The Tichy et al. model of HRM. Source: Tichy et al. (1982:50).*

in government policies, changes in the skills of the employees and finally and changes in employment practices (e.g. by using subcontractors) (Bratton & Gold, 1999:166–179).

The selection process includes first of all attracting a wide choice of applicants who will perform well on the job. It is a process of measurement, decision making and evaluation. The employer has to measure the qualifications of the candidates interviewed. The selection system applied during the process should be reliable and valid to measure the candidates' characteristics. Secondly, inferences and actions based on test scores have to be appropriate (Fisher et al., 2003:283–289). This is very important since candidates are different, e.g. by intelligence, attitudes, ability to learn, social skills, physical characteristics, experience etc. Another factor which employers have to consider is how to predict how each candidate will perform in the workplace, thus they have to recognize the way people differ. It is important to take all these factors into consideration so the company hires the right person for the job. It is important that the selection system used is not biased towards any group of people, it should be fair to minorities and other protected groups. The usual approach when choosing between candidates are interviews and by making the candidates take either ability test or self-questionnaires. Ability tests focus on mental ability, i.e. verbal reasoning and numerical power and sometimes physical skills. The self-reported questionnaires include answers given by the candidate about traits, values, interests, attitudes and preferences, where no answer is right or wrong (Bratton & Gold, 1999:205). When the company has chosen the right candidate it promotes and place his/her within the organizations where they believe the

employee's skills will be maximized.

## 6.2 Rewards

When the human resource department has found the right person they have to consider how they want to reward that employee. Employers often forget how powerful the reward process is to them, e.g. to create a desired organizational behaviour. The importance of rewards is mostly included by re-training and attracting suitable workforce, to maintain and improve the level of each employee and therefore the organization and finally, to comply with employment legislation and regulations (Bratton & Gold, 1999:239). Rewards can have great influence on the performance of a company as mentioned before, it is imperative that the management realizes how important it is to have a well structured reward system. They have to be able to apply it so it affects the long term results of the company, not only the short term results, as is often the problem. There are many options when choosing how to reward an employee that are the following (Tichy et al., 1982:51):

- Payment - salary, bonuses, stock options, benefits, and perquisites.
- Promotion - upward mobility and lateral transfer.
- Appraisal by the management.
- Career opportunities and development.
- Customer and/or clients appreciation.
- Give the employee a sense of his/hers well being when he/she accomplishes the objectives of the job.
- Learning opportunities.
- Job security and financial security.
- Responsibility within the organization.
- Respect and friendship from co-workers.

The reward process is highly related to the other human resource functions and especially the selection process as stated before. It influences the turnover ratio of the



organization as well as employees development and career plans. Performance related reward systems are becoming more popular since they are directly linked to how the employee performs; it is motivating for the employee. However, it has to be very reliable and valid so it works in practice (Bratton & Gold, 1999:245).

## 6.3 Appraisal

Appraisal includes analyzing the employee's performance. Data is collected and reviewed about each employee, all information regarding his/her past and current work behaviour and performance is assessed. The appraisal system is an important tool for management and it is central to the human resource cycle. It gives the management an idea of how rewards can be allocated in relation to employees' performance. Then the managers of the organization can identify the potential of each employee. They might re-position an employee that is performing well and give that worker a better job to make a better use of the worker's skill. The human resource planning is heavily reliant on the appraisal activity, so the management can make decisions knowing that employees have been performing well and the opposite. Then it uses the appraisal analysis to predict for the future. They use the information, e.g. when doing the human resource planning, recruitment and in the selection processes (Tichy et al., 1982:57).

The design of the appraisal system is important, it must fit the particular organization and its environment. It must fulfill the objectives of the evaluation and the principles of the organization. When an organization implements an appraisal system, it should involve staff from all levels of the company. It is important that the employees know how the results will be used and to get everyone in the organization to participate. Usually, when organizations are conducting the appraisal process it takes the form of interviews which involves the employee and the manager. In the interview the dialog between the manager and the employee most often touch up on things like: pay, promotions, careers and work responsibilities. Secondly, developmental needs of the employee and his/her training opportunities and plans of action are discussed (Bratton & Gold, 1999:215).

## 6.4 Development

The development process includes three major areas which are: "... 1) *job improvement: the development of specific job skills and competencies*, 2) *career planning: a longititude*

*focus on individual growth and development in relation to organizational opportunities, and 3) succession planning: the organizational focus on ensuring an adequate supply of human resource talent for projected needs in the future based on strategic plans” (Tichy et al., 1992:55).*

Job improvement refers to that employees gain adequate skills and competencies. Organizations have been using education and training as a way to supply their employees with the necessary skills. When employees are selected they not only have to fit to the job but they also have to have the ability to learn. Learning is an ongoing process in most organizations (Bratton & Gold, 1999:275). It is becoming a factor which is relied on to tackle changes, uncertainty and the complexity in today’s environment. Finally, it is believed to create opportunities to keep sustainable competitive advantage (Bratton & Gold: 1999:289). Learning can be both informal and formal. It is a planned process to increase the workers’ knowledge, change his/hers attitude and skills through learning experience. This is done to affect the performance of the worker through activities. The purpose of the whole learning process is to develop the abilities of the worker to fulfill the current and future needs of the organization. Training and education costs should actually be called an investment, because it increases the knowledge within the organization. It will affect the long-term results of the company. It is important when companies have acknowledged the need for training and education to design a suitable programme. Then, to implement it successfully and next to evaluate the programme (Bratton & Gold, 1999:283). Evaluating the programme is important since too many organizations simply implement training and education programmes without knowing the returns on their investment.

Succession planning is also often called human resource planning. This process includes making assessments about the present and the future needs of the organization and compare it to estimated present and future human resources needed. What the organization has to consider is what kind of employees they presently have, i.e. their skills, age, character, potential, etc. This is especially an important factor when looking at the human resource functions which includes the selection, promotion and the placement process.

Career planning is when the management plans and manages careers of individuals in a way to optimize the needs of the organization and tries to fulfill the preferences and capabilities of the employee. Brousseau et al. (1996:56–57) have identified four career concepts which are linear, expert, spiral and transitory. The linear concept has been seen

as the traditional career move for many years, however that is changing with the working environment. Employees that want linear career moves want power and achievement. Still, today growth and development of employees in their current job is becoming more and more important. The expert profile is ideal for employees who want this focus, these employees become specialists and they value security and stability. Next, is the spiral career concept, employees that prefer this career path like to change jobs every 7 to 10 years. They like to move across occupational areas, specialties, or disciplines. Finally, employees that prefer to have a transitory career like to change jobs every 3 to 5 years. They want to move faster between jobs and into more different occupational areas than the spiral worker. Employees usually fit into some of these four carrier paths. Therefore, it is important when companies are developing their human resources to be able to identify what kind of carrier paths they believe workers are aiming for. This will help them to make their organizations more efficient, their employees will perform better and become more satisfied with their job.

## 6.5 Denmark

HRM practices in Denmark are based on the universal approach to HRM. In Denmark it is common that the person in charge of the HRM is hired from the outside the organization (Brewster & Larsen, 2000:56). Collective bargaining and union participation is evident on the Danish labour market and that shapes the HRM functions. Competence of HRM is of much importance in Denmark, and it is gaining importance in the UK (Brewster & Larsen, 2000:3). By competence, Brewster & Larsen (2000:31) mean: *"...scientific attempt to identify the overall skills and abilities that the organization requires at all levels, unconnected, at least in the first instance, with current individuals."* Danes feel very strongly about training and education and they have a very favourable national educational and vocational training system. Career development is different in Denmark than in the US, where the corporate hierarchical career appeals to workers, because of older retirement ages. Employees, especially in Denmark but also in the UK, are not as financially dependent as US workers since they usually get more support from the State, i.e. health care, social services and education (Brewster & Larsen, 2000:3). The fact that there are smaller companies in Denmark than the US, also means that organizations do not have as formal, systematic career systems such as high-flier programmes. These organizations depend more on learning-on-the-job, the decisions re-

garding carrier moves are more spontaneous and less predetermined (Brewster & Larsen, 2000:35).

Collective agreements play an important role regarding rewards and other working conditions for employees in Denmark. They are negotiated every second year. There is no legislation which guarantees a minimum wages, however it is laid down in collective agreements in each sector. The usual pay systems are monthly, daily, hourly or piece wages system. Overtime is paid with statutory increases as has been mention before. This is usually guaranteed by collective agreements. Payment occurs once or twice a month (EURES, 2005).

## 6.6 Poland

Poland has had more success in transforming itself towards a market economy than many of its neighbouring countries. HRM has undergone significant changes since 1989 and is still developing in Poland (Garavan et al., 1998:200). Even though Garavan's case study indicates that HRM is still underdeveloped in Poland<sup>1</sup>. Further, Holden (1997) has argued that HRM in Eastern Europe still has a long way to go before it represents human resource practices like in western organizations.

HRM in Poland has more of a personnel than an HRM orientation and trade unions have influenced HRM policies and practices in Poland. The HRM activities are highly centralized in Poland and they appear to be influenced by ownership structure (Garavan et al., 1998:205–210). Companies newly developed tend to emphasize recruitment, positive organizational culture, devising remuneration policy, training and development of staff, appraisal and implementation on retention strategies. Retaining employers in companies is a challenge for Polish companies. It is important for human resource managers in Eastern Europe to retain employees so can build up loyalty towards the organization (Vinton, 1998). Companies that went through the transformation focus more on downsizing, changing culture, improving communication and re-training employees. Traditional companies did emphasize more on maintenance-type of personnel activities, i.e. administration and record keeping to keep everything under control and for reporting purposes. Companies that had a clear HRM focus tended to focus more on recruitment policies. That included improving job analysis, collecting and verification of information regarding former work experience and testing practical skills of the

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<sup>1</sup>Note that the data is from 1998 and Poland's HRM has very likely moved forward since then.

candidates (Garavan et al., 1998:208).

Polish organizations tend to put an emphasis on safety and health at work in their organizations. On the other hand, they do not tend to emphasize performance management. It proved difficult to implement a system in organizations which emphasized differences when looking at what employees contributed and their differences in ability. Regarding promotion: there were no organized job rotation plans nor a career development, it was not perceived as a preparation for promotion or seen as a development opportunity. Finally, training of employees tended to be short and the concept of a “learning organization” was not common. The process of training and development indicated selectivity and a lack of coherence and investment (Garavan et al., 1998:208–209). Still, Vinton (1998) stated that training as well as salaries have been an important factor in changing the working environment in Eastern Europe. When considering the overall education system in Poland, Garavan et al. (1998:204) have said that there is a lack of flexibility and that there is too much supply of unskilled labour compared to people with tertiary education (Garavan et al., 1998:204). However, Jeong (2005:1) has stated that there are occurring dramatic changes in the educational system in Poland, which is a good indicator for the Polish labour market.

Rewards for employees in Poland is regulated by the Labour Code. Collective agreements and supra institutional collective agreements also establish the conditions of rewards. The main principle for rewards on the Polish labour market is that workers receive rewards in relation to his/her type of work, qualifications, and the quantity and quality of the work performed. Included in the workers rewards should be his/her annual leave. The rewards can be in the form of: payment, bonuses, commissions and additional rewards, e.g. for night work, shift work etc. The law say that rewards should be paid in monetary form at least once a month in advance or in accordance with other regulations of the Labour Code. If not paid in monetary form it can only be allowed according to the Labour Act or by collective agreement (EURES, 2005).

## 6.7 UK

HRM in the UK has taken a more traditional approach than in Poland. The selection, promotion, reward, appraisal and the development functions are usually functioning as traditional HRM theory describes them. However, there are always some national characteristics and they will be described here below.

In the UK there is a tendency towards adopting individual innovative HRM practices (Bratton & Gold, 1999:31). There exists a mix between collective bargaining with company consultative committees and trade unions (Brewster & Larsen, 2000:31). Thus HRM functions are shaped by this environment. The primary challenges HRM in the UK has been facing, are changing regulatory frameworks, globalization, and lowering costs (Richbell, 2001:261). Further, the need to balance leisure time and work time and to achieve the commitment of employees in the UK (Richbell, 2001:262). In the UK workers have had poor vocational training compared to other EU countries. The UK has simply been solving skill shortages with overtime (Golden & Figart, 2000:183). It has been argued by scholars that UK has failed to educate and train its workforce to the same level as its competitors. However, the UK has been trying to change this fact and improve their vocational training (Bratton & Golden, 1999:278). Further, regarding rewards in the UK it is common that senior employees receive fringe benefits such as: company car, share options and private medical insurance etc. The norm is that workers are paid monthly, however, some might be paid weekly, which is not unusual for people working the low skilled jobs (EURES, 2005).

## 6.8 Summary

Human resources is one of the most important asset an organization has. Therefore, it is important that organizations carefully consider how they approach HRM. HRM is culture bound and in Europe it is influenced by the labour market, trade unions and legal provisions etc. Working time has been considered as a fixed factor when designing HRM. Organizations have to start to realize that working time has to be taken into consideration when designing the human resource functions. Both organizations as well as national governments have to start to make plans regarding how the human resource functions have to be re-designed to tackle the change in working time. In both Denmark and the UK human resource practices are based on the universal approach to HRM. However, each nation has its unique national characteristics. Poland on the other hand, has been going through transformation and their HRM is continuing to develop and has not yet become fully developed. In next chapter the HRM, working time, legal provisions and national culture will be outlined in the theoretical conceptual framework. The theoretical problem will be analyzed according to the purpose of the thesis.

# Chapter 7

## Theoretical Conceptual Framework

The conceptual framework applied (Fig. 7.1) to analyze how a change in working time effects HRM, while considering national culture is the following: The WTD and national legislation will be analyzed to see how a change in the definition of working time will affect HRM. Next, the way national culture effects working time and HRM is analyzed. Finally, how working time effects HRM is analyzed.

### 7.1 Legislation Effects on Working Time & HRM

When the WTD took effects it was bound to have different implications in the EU countries. It was without a doubt easier for countries which had national legislation or collective bargaining systems already implemented regarding working time. Those countries had, e.g. rules about maximum working time, which made it easier for them to adapt to the WTD. Further, the fact that all EU15 countries had already signed the Social Charter also influenced the level of difficulty. Those countries were better prepared since they had already been tackling issues highly related to working time.

Countries that have been relying on using the derogation Article 17 and the opting-out possibility in Article 18, will become more exposed to the changes. Hence, it is very likely these Articles will be erased or that the use of them will be guarded more carefully. On the European Parliament 12 May 2005 the possibility of opting out was failed by majority voting. Thus, countries can now no longer ask employees to sign an opt out agreement. Therefore, in order to limit the impact of the change in the definition of working time by using the opt out clause in Article 18 will no longer be possible for Member States. That is, countries can not apply Article 18(1)(b)(i) which says that it is possible not to apply Article 6 if the worker gives his agreement. However, a loophole still exists in the WTD that self-employed workers are not covered by it.

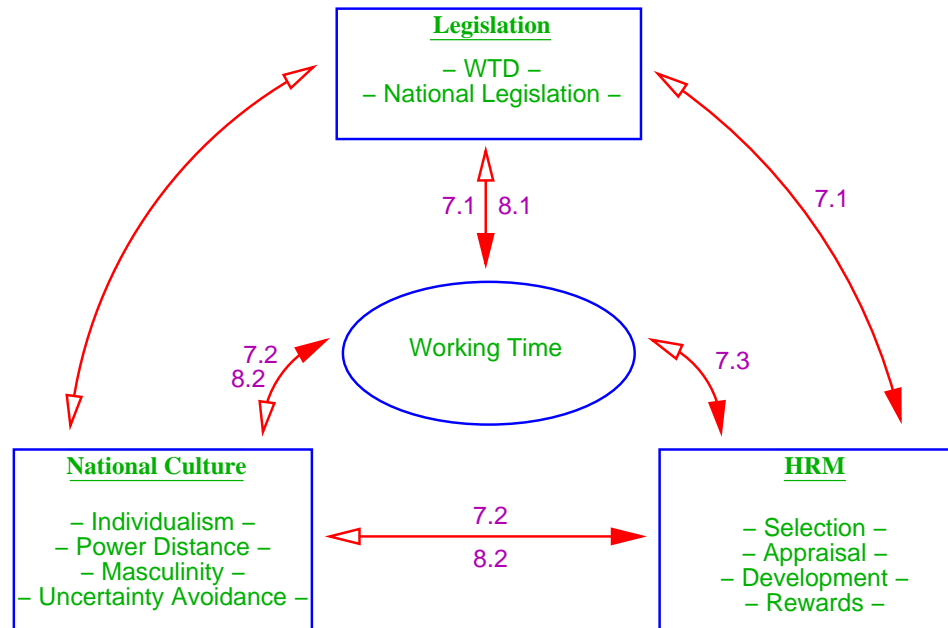


Figure 7.1: *Theoretical conceptual framework. Arrows between boxes indicate a relationship between their contents. More specifically, filled arrowheads indicate connections analyzed in the thesis. Empty arrowheads indicate that a relationship exists with some degree of influence, but is not discussed. Numbers next to the arrows point to the relevant sections, where the corresponding relationship is analyzed.*

Therefore, hospitals or other work places could start using self-employed doctors or other self-employed workforce. Regarding Article 17, workers can still use Article 17(4) to derogate from Article 16. However, that has not turned out to be as feasible option for workers in the past as using the opt out possibility. Of course according to Article 17 you have to belong to a certain occupational group so you can use the possibility of derogation. Therefore, certain sectors are bound to experience reconstructions.

Both national legislation and the WTD have legal provisions including working time. According, to the WTD countries can implement stricter provisions regarding working time but not more lenient. Therefore, in some countries the WTD works simply a safety net while in others it represents basically the national legislation regarding working time. The change in working time has recently been introduced by case law (Jaeger & SIMAP) in the EU. These changes have not yet been implemented into the WTD since the WTD is currently being re-examined.

Legislation does influence the way HRM is designed. Both organizations as well as governmental bodies have to take into consideration the legislation which is in force when designing the four major human resource functions. They have to be sure that legislation is fulfilled. They do not only have to obey to national legislation but European legislation



as well and as Brewster & Larsen (2000:16) have stated legislation in Europe this is not seen as an external force in European HRM but as a part of the topic as. Rewards are in most countries guarded by national legislation, e.g. minimum salaries, when the worker needs to be paid and other benefits which can be regarded as rewards. Regarding selection and promotion there are various national laws which forbid discrimination etc. Appraisal is a function which is not very related to legal provisions, since that is simply a system which the organization uses for its internal assessment. Still, when conducting assessment of employees, the respects of employees should be respected, e.g. whether they want to keep their assessment profile as confidential etc. Finally, development which includes training and education is to some extent guarded by legal provisions. National law make it mandatory that people receive basic education and training. When worker gets to the labour market, the training and education conducted by organizations might not be guarded by laws but national authorities can influence that process by their policies regarding training and education. For example, if there is a shortage of doctors they could inject money and improve facilities to encourage people to become doctors. Thus, legislation does indeed guard some of the four HRM functions of and shapes HRM in all countries.

## 7.2 National Culture Effects on Working Time & HRM

National culture is based on peoples values, beliefs and assumptions. It is the way people are programmed and reflects what they consider is normal. Working time is different between countries and if it is considered to be the norm to work either long or short hours, that becomes accepted in the society. People get use to it, they learn that is approved by the society, the whole nation shares this vision, therefore they believe that nothing is wrong with it. National culture is something that is sub conscious in your mind. Working long or short hours is also considered normal because it is something inherited from the generation that came before you. However, national culture can change over time but that takes time. Most people want to belong to the group. They want to live and behave according to the values of the society. If they disobey to the values it is likely that they will not fit into their own national culture. For example, a worker who does not work at all or simply works too few hours a week is often considered a loser while a worker who works too many hours would be considered a workaholic<sup>1</sup>.

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<sup>1</sup>When taking into consideration their social and family environment.

These workers are judged by the society as not being normal<sup>2</sup>.

National culture does influence HRM as has been stated earlier in the thesis. It influences the way HRM functions are developed, since they have to fit into the national culture. It is difficult to say to what extent they influence HRM but each nation has its preferences for when selecting, rewarding, appraising and developing employees. There is always something that human resource departments and employees in organizations prefer over another. This is influenced by peoples values, believes and assumptions. For example, working hours is one factor of nations culture that affects HRM. Employees in individualistic countries are more likely to focus on their self-interest and self-actualization within the organization. Thus, development, including: training, education, career paths and promotion within the organization should be important to them. When employees in collectivist countries would be more worried about the group of employees that work in the organization. Thus, when human resource department designs the four HRM functions they will have to take factor like that into consideration. Power distance indicates how well employees can accept authority within the organization and unequal income and wealth. This will most likely be reflected in organizations how many hierarchical ladders there would exist in organizations and how reward systems would work. In high power distance countries, having clear hierarchical ladder and a reward system which would favour some employees over others might be more common than in countries with lower power distance. The fact whether countries are feminine or masculine might also be reflected in reward systems because for employees in masculine countries material success is important. Career development and appraisal systems are also likely to be more important in masculine countries, since achievement and heroism is important. Then uncertainty avoidance reflects how employees like order, safety, law and rules, precision and clarity. This might influence how selection, reward, appraisal and the development of employees are designed. They are likely to be more formal in countries where uncertainty avoidance is high. Because in high uncertainty avoidance countries people like more rigid atmosphere and dislike uncertainty and ambiguity so the opposite should be true for countries with low uncertainty avoidance.

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<sup>2</sup>Normal would be defined according to societies cultural norms, which would depend on which country you live in.

## 7.3 Working Time Effects on HRM

In the past and currently working time has been taken as a fixed factor when designing the HRM functions. Today, with more variety in working time<sup>3</sup>, organizations as well as national governments have to take working time into consideration. Now when workers will not be able to work more than 48h/week it will have implications on the four major human resource functions, however some more than others. A change in the definition of working time is a raising concern in Europe. Organizations, will have to start to recruit more qualified employees (this falls under the selection according to Tichy). Selection and appraisal systems will need to be more efficient to spot out the qualified candidates because more employees will be hired and assessed. The appraisal would have to be re-designed, where work behaviour and performance would not be assessed on how much overtime the employee can spend at work. If there exists a bias in organization's system towards worker who can work a lot of overtime that would have to be erased. With a change in working time promotion and placement patterns might change (related to career paths) with a maximum working time of 48 hours a week, organizations might consider promoting different types of employees, i.e. not only the employees who can work endless amount of overtime. For example, older workers and single parents etc. Thus, more people would be considered to become qualified for positions inside the organization.

Rewards in organizations will also be influenced by a change in working time. What organizations and employees will experience is whether employees will keep the same rewards if they do not work as much overtime. This is an issue that organizations will face that employees have yet to realize. Rewards can have great influence on workers performance in his/her job, however the fact is that if employees work too much they do not become as productive. Therefore, a cut in overtime might actually increase productivity of workers. Therefore, whether organizations should pay employees the same salaries will have to be evaluated by each organization and by each employees performance.

Development of employees, especially training and education will have to be increased. Sectors, especially the health care sector for now, will experience a shortage of skilled labour. Training and education has to be increased nationally if governments are planning to fulfill their obligations according to the WTD. Further, if the SIMAP and

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<sup>3</sup>With a focus on maximum 48 hours working week for this thesis.

the Jaeger judgments will be fully adopted in a revised WTD. National governments will have to change their training and education policy, if they want qualified people to fill job where skilled people are needed. They will be forced to inject money into training and education sectors. Individual organizations will also experience the change in the definition of working time, they will also have to train and educate more people at the work place. On-the-job training will have to increase as well as off-the-job training. This will increase training and education costs not only for national governments but for individual organizations as well. If governments and organizations will not inject funding into training and education another option will be to “import” skilled labour from other countries, from the EU as well as from outside the EU. That, however might put a heavy burden on some Member States, especially the new ones. It might become important that EU officials prevent brain drain within the EU if they want to establish equality inside the EU or for that matter the whole world.

Organizations, as well as national governments will be affected by a change in working time and it is important that they start to make human resource planning for the future. They have to realize current needs and estimate future need of organizations. This is important so they can make planning and tackle the future. Regarding, career planning it is likely that a change in working time might influence what career path people choose. Now employees who thought they were strained by not being able to work a lot of overtime have more changes to pursue a career path they thought was impossible before.

## 7.4 Summary

In this chapter the theoretical conceptual framework was introduced and the theory was analyzed. The effects that legislative provisions and national culture have on working time and HRM were identified. Then also working time effects on HRM was analyzed. In the next chapter the theoretical conceptual framework will be applied to analyze the situation in the three researched countries.

# Chapter 8

## Comparison of the Conceptual Framework for the Three Countries

The empirical study involved three countries which are Denmark, Poland and the UK. Here below the theoretical conceptual framework will be used to analyze the situation in the three countries.

### 8.1 Legislation Effects on Working Time

All the three countries have different national legislation. Poland has statutory legislation regarding working time, Denmark has collective bargaining system and the UK did not have any legislation at all. In Poland and Denmark the WTD works more as a safety net while in the UK it represented the only legal provision for working time. Both Denmark and Poland implemented the WTD without asking for any special conditions. However, when the UK implemented it they started to make heavy use of the opting out possibility, i.e. not applying Article 6, regarding maximum weekly working time. The WTD has had different effects in the three countries. It surely introduces the most changes in the UK, still with the option of not applying Article 6 little changes have occurred in the UK up till now. The employees that used to work long hour still do. That is however, likely to change now since the European Parliament reached a majority voting regarding erasing the possibility of opting out.

National legislation in both Denmark and Poland has had effects on working time. In both Denmark and Poland where there exist limits on how many hours employees can work employees work less than in the UK where there exists no national legislation. Denmark would be described as having short working hours culture, while Poland would be somewhere between being described as having normal towards long hours culture.

When looking at the UK where employees are not used to any limitations on working time they tend to work a lot of overtime. Here are the roots of why UK has long hours working culture. The reason why the UK has such difficulties in accepting and respecting (i.e. by not constantly applying the possibility to opt out or to derogate the WTD), is because they are not used to be bound by legal frameworks when considering working time.

## 8.2 National Culture Effects on Working Time & HRM

Each countries national culture influences the way people think about working time. In the UK there exists a long hours culture, it is believed to be a norm in the UK to work overtime. Employees in the UK do not oppose if they have to work overtime, they like it, they have always done so. The UK nation has been programmed to consider that working long hours is fine. The nations values, believes and assumptions supports it's view. However, now the WTD states that one can not work more than 48 hours a week and soon the opt out article will be erased. Still, the UK does not want to admit that they have been conquered so they have to cut down their working long hours. They tend to fight the European Parliaments decision. In Denmark there exists a short hours culture. Thus Danish people has been programmed to consider short working hours the optimal. Therefore, Danish people work lesser hours than people from the UK. Poland is somewhere between the two before mentioned even though they tend to work rather more than less hours compared to other EU countries. The same applies for Poles they have been programmed to view their working hours as optimal.

HRM is affected by national culture. The three countries tend to focus on different functions or the way they shape their HRM. However, in countries such as the UK and Denmark the universal approach to HRM, i.e. the theoretical description of the four human resource functions is applied more often than in Poland. Especially, since Poland has not yet developed their HRM completely. For example, collective bargaining has huge influence in Denmark where it does not have nearly as much influence in Poland and the UK. Hofstede dimensions can also give an indication of what employees might value when designing the HR functions. In especially the UK but also in Denmark employees would be likely to value training, education, career paths and promotion because they like self-interest and self-actualization. Informal approach to HRM is also likely in individualistic countries since they prefer a more loosely knit society. While

in more collectivist countries such as Poland, this would not be as important. Poland would prefer more formal, hierarchical and rigid HRM system since they score high in both power distance and uncertainty avoidance. Where safety, rules and laws are valued to more extent than in the UK and Denmark which score low in both power distance and uncertainty avoidance. Career development, promotion, reward and appraisal systems would be valued in countries which score high in masculinity, i.e. Poland and the UK. Since employees in those societies value achievement, success, money and heroism. Thus, it might be important to workers to receive a recognition for their performance at the workplace.

### 8.3 Working Time Effects on HRM

A change in the definition of working time has raised a concern through out Europe. Selection (including recruitment for the thesis), promotion and the planning process will become more extensive process in all the three countries. More candidates will have to be attracted and countries might have to start to fight for qualified employees. For example, doctors have already started moving away from Poland to Denmark because there they receive better salaries, work less hours and work with more high tech equipment. Developments into this direction could have devastating effects, especially for the new Member States, which can not offer as good salaries and equipment for employees to work with compared to the EU15 Member States. Hence, financially better off EU countries could start “importing” skilled labour. They could offer employees better salaries and work environment. Poland will be most likely to loose in this battle of the three countries researched.

UK has estimated that it would have to recruit between 6,250 and 12,550 doctors and 1,250 staff other than doctors. In 1996 there worked 102,610 doctors in the UK, thus an increase of 6–12% of doctors would be required (EOHCS, 1999b:88). The cost implications would be around 798–1625 million Euros (COM 2003 843 final:20). In 1996 there were 91,121 doctors in Poland, with a change in the definition of working time the Ministry of Health in Poland has estimated that it would have to hire about 10,000–15,000 more doctors. That is an increase of 11%-16.5% which would cost 164–187 million Euros (CCBC, 2004). These number only focus on doctors, therefore a total number of employees which needed to be recruited and rewarded in other sectors

will increase these sums even further<sup>1</sup>. Therefore, it is important that all the three countries start to plan for the future and estimate how much additional workforce they will need. It is evident that the three countries will have to increase their spending on education and training to have skilled employees in their jobs. The three countries have different infrastructure regarding education and training. Denmark might be best prepared of the three countries because of good educational and training infrastructure. Even though both Poland and UK have been trying to improve their educational and vocational training systems. That might help them to tackle the change in working time better than before. Regarding career planning no detailed information was available as to how a change in working time would affect each individual country, however as was stated in the theoretical conceptual framework career plans are likely to be affected by a change in working time.

Appraisal systems as said before will have to become more efficient in all the three countries because more employees will need to be assessed. However, there were not found any specific country data which implicated that the appraisal systems will be influenced differently in each country. Below a summary of the situation in the three countries can be found.

Box 8.1: *An overview of the situation in the three researched countries.*

### Denmark

**Legislation Effects on Working Time:** Denmark which has a strong collective bargaining system will be influenced by the change in working time. They will mostly be influenced by recent judgements regarding what is working time, overtime and rest periods in the SIMAP and the Jaeger cases.

**National Culture Effects on Working Time & HRM:** Denmark is an individualistic and a feminine country, power distance and uncertainty avoidance is low. These characteristics influence the way HRM systems are in Denmark. Danish HRM systems are likely to be informal where safety, rules and laws are not believed to very important. Employees are likely to value training, education, career development and promotion. In Denmark there exists a short hour culture. Danish people believe working short hours is normal.

**Working Time Effects on HRM:** With a change in working time Denmark might be best prepared of the three countries to tackle the change. They seem to have better training and education system. Cost will increase regarding recruitment, training and education. The Danes work less than the other two countries, therefore, they will not experience the changes as much as the other two countries. For all the three countries selection, promotion and the planning process will be come more extensive, planning for the future is very important.

<sup>1</sup>Unfortunately, no example was found for Denmark. Still, they are experiencing the same problems as in the other two countries.



## UK

**Legislation Effects on Working Time:** The UK will experience the most changes regarding legislation effects on working time of the three countries. In the UK there has been a strong tradition for working long hours. The WTD the Brits are restrained, they have to cut down their working time. Further, the impact will be felt now more than ever since the European Parliament has decided to take out the Article to opt out. Also the fact that countries will have to follow ECJ decision on what is to be considered rest periods, overtime and working time.

**National Culture Effects on Working Time & HRM:** UK is an individualistic and a masculine country, it scores low in both power distance and uncertainty avoidance. Hence, as in Denmark HRM systems in the UK are informal where safety, rules and laws are not considered important. Training and education are believed to be of importance. However, it seems to be more important in Denmark. Career development, promotion, rewards and appraisal systems are also valued in the UK. There exists a long hours culture in the UK, working long hours is considered normal.

**Working Time Effects on HRM:** The change in working time is having most effects within the UK of the three countries. The Brits are not ready to cut down their working time. Their HRM systems have to adapt to the change in legal provisions regarding working time. They will most likely have to do the most drastic changes to their HRM systems of the three countries. The selection, promotion and the planning process will have to be improved. Last but not least, training and education will have to be re-evaluated.

## Poland

**Legislation Effects on Working Time :** Poland has statutory legislation regarding working time which makes it easier for them to adjust to the WTD. They are used to apply to legal provisions and especially because their laws regarding working time are tighter than the legal provisions in the WTD. The Poles as the Danes will mostly be influenced by the judgements of the SIMAP and the Jaeger cases, i.e. regarding what is working time, overtime and rest periods.

**National Culture Effects on Working Time & HRM :** Poland is a collectivist and a masculine country, it scores higher than the other two countries in both power distance and uncertainty avoidance. Again, this influences how HRM is in Poland. HRM system in Poland is believed to be formal, hierarchical and rigid. Safety, rules and laws are valued in Poland as well as career development, promotion, reward and appraisal systems. Working time in Poland is quite long and Poles consider their working time as normal.

**Working Time Effects on HRM:** The influence of a change in working time will have effects on HRM in Poland. The same goes for Poland as the other two countries, selection, promotion and planning has to be improved. Training and education systems need to be improved, organizations and the government have to be ready to face increased cost, as said before. Still, the situation is unclear in Poland since it has not yet a fully developed HRM system. Finally, that is will be important for Poland to retain its workers in Poland.

## 8.4 Summary

In this chapter the countries were analyzed according to the theoretical conceptual framework. The fact that all the three countries have different national legislation influences the level of difficulty when facing the change in working time. The level of difficulty in accepting that working hours have been cut to 48 hours a week depend on each national culture, i.e. what is the nation programmed to consider as normal working hours. The countries will all face similar challenges regarding their HRM functions with a change in working time. In the next chapter key findings and insights will be given. Then in chapter 10 some conclusions regarding the subject will be provided to the reader.

# Chapter 9

## Key Findings & Conclusions

Legislation or collective bargaining systems usually lay down rules and regulations regarding working time; they determine the working hours and rest time for employees. However, not all nations have legislation or strong collective bargaining systems; employees in such countries, e.g. the UK, are not used to being strained when considering working time. Due to this fact, the WTD has had different implications for different EU countries. Of the three countries researched here, the UK is experiencing the most problems. The fact that the UK has also been heavily relying on the opt-out possibility and derogation, will increase their problems even further in the future: the European Parliament as recently agreed to erase the possibility to opt out.

Legislation does influence HRM even though it does not directly affect all the four major HRM functions. It lays down ground rules for how HRM must be conducted. For example, legislation exists on discrimination, payment and basic education. National culture also affects HRM and depending on how countries scored on Hofstede's dimensions, predictions were made regarding what would be likely HRM developments. In our two individualistic countries, the UK and Denmark, the HRM systems are more likely to be informal, employees are likely to value training, education, career development and promotion<sup>1</sup>. Moreover, in the UK and Denmark, which both score low in power distance and uncertainty avoidance, safety, rules and laws would be valued less than in Poland. Poland would be likely to have a more formal, hierarchical and rigid HRM approach. Finally, in our two masculine countries, the UK and Poland, career development and promotion would also be important, as well as reward and appraisal systems.

Working time is different between national cultures. Some national cultures believe that working long hours is normal while other do not. It all depends on the way people

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<sup>1</sup>Career development and promotion is also favoured in both individualistic and masculine countries.

are programmed which in turn influences whether people prefer to work long or short hours. In Denmark exists a short hour culture, people work considerably less than in the UK which is the opposite. In Poland the situation is somewhere between the two countries, although they are closer to the UK long hour culture.

With a change in working time, governments/organizations have to start to plan for the future. With a change in working time, they will have to start to recruit more qualified employees: training and development will have to be increased. They have to start immediately to inject money into these functions if they want to obey to the change in the working time definition. Selection and appraisal systems have to become more efficient since more candidates have to be assessed and eventually hired. Biases in HRM functions toward people who can work endless amount of overtime, will have to be eliminated. Promotion and placement patterns might change, i.e. other types of people might become promoted. Reward systems will most likely have to be re-designed since a change in working time will influence the amounts people will get paid. For example, employees that are accustomed to work more than 48h/week are likely to experience salary decrease.

What is important for organizations as well as governments is to realize how legislation, working time, national culture and HRM are tightly knit together. One can not isolate HRM from national culture, working time and legislation. The relationships between those factors are also influenced by the relationships between the other factors.

Denmark, Poland and the UK will all face similar challenges regarding a change in the working time definition. They will experience increased costs, regarding recruitment, training and education. Nevertheless, Denmark might be better prepared to increase training and educating their workforce than the other two nations. Poland might experience brain drain of skilled workers because other EU countries could offer Polish employees better salaries as well as working conditions.

The WTD is supposed to improve the health and safety of workers, as well as working and living conditions within the EU. It is clear that countries that continue to go around the Directive, jeopardize its purpose: workers will suffer from too much workload, fatigue and experience problems when balancing leisure/work. Therefore, it is important that all workers are included in the maximum 48h/week rule, and that the opting-out clause is erased (as has recently been decided by the European Parliament). It is also imperative to carefully re-examine the derogation article.

A change in the working time definition will introduce complications and enforce

changes, not only regarding HRM, but in the whole society. The national culture in each country will either make the adjustments more difficult or easy. This will depend on how the people in the society are programmed, i.e. what are their common values, beliefs and assumptions.

Countries and organizations will experience problems regarding adjusting to the change in working time. They will have to re-design some of their HRM functions and will experience increased cost, especially regarding training and rewards. However, organizations could still sidestep the WTD by hiring self-employed workers; they do not fall under the Directive. So, even if the working time is changed, the opt-out possibility erased and the derogation article re-examined, organizations can still evade the Directive. However, that is something that time will only tell.



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