



SCHOOL OF
ECONOMICS AND
MANAGEMENT

Working Hours for First Responders

A comparative analysis of the implementation of Directive 2003/88/EC in Sweden
and Denmark

Bachelor's Thesis in Labour Law

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HARH16

Autumn 2023

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Words: 10 956

Table of Contents

Abstract	3
Abbreviations	4
1. Introduction	5
1.1 Background	5
1.2 Purpose and research question	6
1.3 Delimitations	7
1.4 Methodology & material	7
1.4.1 EU legal material	9
1.4.2 Interpretations of collective agreements	9
1.5 Disposition	10
2. Working time regulation within the EU	11
2.1 The Framework of Directive 2003/88/EC	11
2.1.1 Rest periods	12
2.1.2 On-call and stand-by	12
2.1.3 Derogations and exceptions	13
3. Working time regulation in Sweden	14
3.1. Legal framework: Sweden	14
3.1.1 Rest periods	15
3.1.2 On-call and stand-by	16
3.1.3 Derogations and exceptions	17
3.2 Central collective agreement for first responders	17
3.2.1 Collective agreement for ambulance-workers	18
3.2.1.1 Rest periods	18
3.2.1.2 On-call and stand-by	19
3.2.2. Collective agreement for firefighters	19
3.2.2.1 Rest periods	20
3.2.2.2 On-call and stand-by	21
4. Working time regulation in Denmark	22
4.1 Legal framework: Denmark	22
4.1.1 Rest periods	22
4.1.2 On-call and stand-by	23
4.1.3 Derogations and exceptions	24
4.2 Central collective agreement for first responders	24
4.2.1 Collective agreement for ambulance-workers	24
4.2.1.1 Rest periods	25
4.2.1.2 On-call and stand-by	26
4.2.2 Collective agreement for firefighters	27
4.2.2.1 Rest periods	27
4.2.2.2 On-call and stand-by	28
5. Comparative analysis	29
5.1 Analysis & comparison	29
5.1.1 The implementation in Sweden	30
5.1.2 The implementation in Denmark	30
5.1.3 Comparison	30

6. Conclusion	31
6.1 Authors' concluding thoughts	32
7. Bibliography	34

Abstract

This essay delves into the implementation of EU Directive 2003/88/EC on working time in Sweden and Denmark, with a specific focus on rest periods for firefighters and ambulance personnel. Analysing both national legislation and collective agreements due to the robust labour market system in both countries, the essay seeks to comprehend Sweden's response to criticism from the European Commission in 2023 and proposes strategies for improvement. Despite similarities, there are some notable distinctions, such as Denmark's Minister of Labour having authority over deviations. The comparative analysis highlights varied collective agreements, where Sweden is more uniform in the design of the agreements, while Denmark is more variable in both design and complexity. Criticisms include inadequate treatment of rest periods and insufficient monitoring of working hours. While recent changes in Swedish agreements address some issues, legislative adjustments are necessary. Proposed theories aim to alleviate employee dissatisfaction, advocating for an equitable distribution of on-call and stand-by shifts. These findings emphasise the persistent challenges in harmonising national regulations with EU directives and prioritising employee well-being through balanced work hours.

Keywords: Labour law, Working Time Directive 2003/88/EC, rest periods, on-call, stand-by

Abbreviations

AFS	The Work Environment Agency's Statutory Collection
ATL	The Swedish Working Hours Act
CJEU	European Court of Justice
EC, the Commission	The European Commission
EU	European Union
Prop.	Proposition (government bill)
TFEU	Treaty on the Functioning of the European Union
Working Time Directive	Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time

1. Introduction

1.1 Background

Working time remains a battleground where political and economic ideologies clash. The historical significance of this issue is evident in the fact that the first ILO Convention in 1919 addressed working hours,¹ and the question of who governs workers' time remains as crucial to labour law today as it was a century ago. In the European Union, formal legislation in this area began to take shape in the 1990s and onwards. An important step was the adoption of the labour rights package, of which the first Working Time Directive (93/104/EC) was a central part.

According to article 288 TFEU, directives “shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.”² Since 1973 and 1995, Denmark and Sweden, respectively, have been Member States of the European Union, and are therefore obliged to comply with its binding legislation. However, both countries have been criticised by the European Commission for the implementation of the current Working Time Directive (2003/88/EC).

For example, in 2017 the Commission criticised both Sweden and Denmark for allowing too long calculation periods for the average working hours for night workers.³ The most recent critique to both countries came this year, 2023, in the recurrent report of the implementation in the Member States, when the Commission pointed out that the countries lacked clear regulation regarding the employer's responsibility to record working hours, among other things as well.⁴

In 2021, a complaint from an ambulance driver in Sweden came to the EU, alleging that the collective agreement to which he/she were subject to did not take sufficient account of the directive's rules on 24-hour rest.⁵ The Commission went on to declare that Sweden did not give corresponding

¹ ILO. ‘Convention No 1 Hours of Work (Industry)’. 1919.

² The European Union. Fördraget om Europeisk Funktionssätt (Konsoliderad version). *Europeiska unionens officiella tidning*. 2012-10-26. article 288 (Accessed at: https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0006.02/DOC_2&format=PDF).

³ European Commission. Rapport från kommissionen till Europaparlamentet, rådet och europeiska ekonomiska och sociala kommittén - Rapport om medlemsstaternas genomförande av direktiv 2003/88/EC om arbetstidens förläggning i vissa avseenden. *European Commission*. Bryssel 26.04.2017. p. 9 (Accessed at: <https://eur-lex.europa.eu/legal-content/SV/TXT/PDF/?uri=CELEX:52017DC0254&from=RO>).

⁴ Ibid, p. 4.

⁵ Charlie, Weimers. Parlamentsfråga - P-001653/2023(ASW): Arbetstidsdirektivet, dygnspassen och EU-kommissionens nya krav på Sverige: P-001653/2023. *Europaparlamentet*. 2023-05-24. https://www.europarl.europa.eu/doceo/document/P-9-2023-001653_SV.html. (Accessed: 2023-11-10).

compensatory leave or appropriate protection, when derogating from the directive.⁶ After receiving this criticism from the Commission, Sweden was required to make changes in the national legislation and/or in collective agreements in order to ensure that the country meets the criterias. The changes in the Swedish collective agreements for ambulance personnel and firefighters have then been criticised by both firefighters and ambulance personnel, leading to protests.^{7, 8} What remains to comprehend is whether these new changes meet the requirements of the directive regarding rest periods, and what could be different in the implementation of the directive in comparison with Sweden's neighbouring country Denmark.

1.2 Purpose and research question

The purpose of this essay is to compare the implementation of the EU Directive 2003/88/EC, focusing on rest periods along with on-call and stand-by work for first responders, between Sweden and Denmark. Both countries have a strong system of collective agreements, covering a large part of the employees on the labour market,⁹ making it interesting to compare the possible differences and similarities of the implementation between Sweden and Denmark. Since on-call and stand-by work does not have a universal definition, and the EU does not define it in the current Directive 2003/88/EC, the contractual forms can differ from one country to another.¹⁰ The reasons why we are investigating these questions for specifically first responders are because of the criticism that came to the EU from an ambulance driver in 2021, as well as the fact that first responders often work on-call and stand-by.

As previously mentioned, Sweden has recently received criticism from the Commission regarding the implementation of daily rest which has led to changes in some collective agreements, including collective agreements for first responders. For that reason, we aim to examine what these changes actually signify and how they meet the requirements of the directive. Therefore, the new changes in the collective agreements in Sweden affecting ambulance personnel and firefighters will be in the discussion. In order to create this understanding, the essay will answer the following questions:

⁶ Nicolas, Schmit. Parlamentfråga - P-001653/2023(ASW): Svar från Nicolas Schmit på Europeiska kommissionens vägnar. *Europaparlamentet*. 2023-07-25. https://www.europarl.europa.eu/doceo/document/P-9-2023-001653-ASW_SV.html (Accessed: 2023-11-10).

⁷ Raffaella, Lindström. Brandmän i protest mot skärpta regler om dygnsvila: "Lämna oss ifred". *Kommunalarbetaren*. 2023-04-11. <https://ka.se/2023/04/11/brandman-i-protest-mot-skarpta-regler-om-dygnsvila-lamna-oss-ifred/> (Accessed: 2023-11-03).

⁸ Anna, Sjögren. Protesterna växer mot nya arbetsreglerna: Blir katastrof. *Aftonbladet*. 2023-04-17. <https://www.aftonbladet.se/nyheter/a/nQB2m5/vardpersonal-protesterar-mot-nya-arbetstidsregler-bli-katastrof> (Accessed 2023-12-04).

⁹ Jytte, Kaltoft Bendixen. *Europæisering af arbejdstiden - Et casestudie af samspillet mellem Arbejdstidsdirektivet og arbejdsmarkedssystemerne i fem EU-medlemslande*. Copenhagen: Jurist- og Økonomforbundets Forlag, 2007. p. 78-79.

¹⁰ ILO. What are part-time and on-call work? *International Labour Organization*. https://www.ilo.org/global/topics/non-standard-employment/WCMS_534825/lang--en/index.htm (Accessed 2023-12-05)

- *How is the European Union's Working Time Directive 2003/88/EC regarding rest periods, on-call and stand-by time implemented for first responders in Sweden compared to Denmark?*
- *Based on the new changes in the collective agreements that have been made as a response to the criticism Sweden has been given from the European Commission - to what extent does Sweden meet the requirements in Directive 2003/88/EC?*

1.3 Delimitations

Directive 2003/88/EC, regulates several aspects of working conditions for employees within the European Union, such as maximum weekly working hours, night shift and annual paid leave.¹¹ However, in order to answer the questions, the focus will be on rest periods and on-call along with stand-by time. Furthermore, as first responders include several different professions, this essay will focus on the conditions for ambulance personnel and firefighters.

Greenland and the Faroe Islands are self-governing regions that are a part of Denmark.¹² This essay will not discuss any exceptions for these islands.

In order to remain aligned with the research questions, some specific aspects will be omitted in the essay as they are deemed too broad, by us, as they oftentimes have partially different rules or are irrelevant to the question. Consequently, there will be no mention of workers under the legal age in the countries nor medical or firefighter students as they oftentimes have different rules than regular employees. Doctors will also not be discussed, as regular ambulances generally only hold nurses and assistant nurses.¹³

Specific aspects such as pauses or work rhythm which are discussed in article 13 in Directive 2003/88/EC will not be mentioned. Vacation rights or difference in working hours during vacations along with monetary replacement regarding different types of labour i.e. overtime will also be excluded from the thesis. Moreover, as there are many different types of employment contracts, this essay will primarily focus on full-time or part-time workers.

1.4 Methodology & material

This essay serves a jurisprudential purpose and aims to ascertain the current state of the law and compare this between the countries. To answer the research questions two methods will be used, both the legal dogmatic method and the comparative method. The initial focus is to establish the existing

¹¹ Articles 6, 7 and 8 in Directive 2003/88/EC.

¹² Martina Johannesson, Danmark – Geografi och klimat. *Landguiden*. 2023-03-03. <https://www.ui.se/landguiden/lander-och-omraden/europa/danmark/geografi-och-klimat/> (Accessed: 2023-12-11).

¹³ Johan, Fridh. Möt den första ambulansläkaren i regionen. *Uppsala Nya Tidning*. 2023-07-24. <https://unt.se/nyheter/upsala/artikel/historiskt-hon-ar-forsta-ambulanslakaren-i-regionen/lwxv93yj> (Accessed: 2023-12-11).

legal rules, that is *de lege lata*,¹⁴ in both countries. To achieve this, the legal dogmatic method is applied, rooted in the theory of different legal sources,¹⁵ as will be elucidated below. Utilising legal sources, the method establishes the content of the current law, also described as 'how the legal rule should be understood in a specific concrete context'.¹⁶ Furthermore, our own thoughts about the findings of the essay will be addressed.

To gain a broader understanding of the regulations in each country's national legislation, we have consulted literature written by experts in the field, as well as included legal commentaries and government bills. The majority of the literature concerning Sweden consists of material used in our previous labour law courses at Lund University, selected by our professors. However, we have also incorporated additional literature to gain a more comprehensive understanding of the subject. While we managed to find literature of the Danish legislation independently, locating the most relevant collective agreements for Denmark proved to be more challenging. In this aspect, we received assistance from Mette Søsted Hemme, an Assistant Professor in Labour Law at Aarhus University. Additionally, internet sources from the European Union along with some selected newspaper articles have been used with the purpose of creating an understanding of how Directive 2003/88/EC have been interpreted along with the opinion of employees in the relevant professions.

To be able to answer the research question the comparative method is also used. With the comparative method it is possible to compare possible similarities and differences in the legal systems and collective agreements between Sweden and Denmark. In the field of comparative law, the focus lies in examining how distinct legal systems address a common issue present in both countries. Effective comparison assumes that the legal provisions under scrutiny pertain to the same subject matter. Hence, it is essential to contrast regulations that govern equivalent situations.¹⁷ However, linguistic difficulties and differences in meaning between words may arise.¹⁸ An example is that Sweden and Denmark have a word for the 24 hours between 12 am to 12 am the next day (called *dygn/døgn*), while English, and thus EU legislation, only calls it "24-hours", and does not define under which period of time these 24 hours should be.

In the process of conducting a comparative analysis of legislation across countries, understanding the familial relationship between legal systems simplifies the examination of foreign law. As articulated by Bogdan, this comprehension can be viewed as an educational tool that facilitates the systematic

¹⁴ Bert, Lehrberg. *Praktisk juridisk metod*. 7th edn. Uppsala: Iusté. 2014. p. 203-204.

¹⁵ Jan Kleineman. *Juridisk metodlära*. 2nd edn. Maria Nääv. Mauro Zamboni (editors). Lund: Studentlitteratur AB. 2018. p. 21.

¹⁶ *Ibid*, p. 26.

¹⁷ Michael, Bogdan. *Komparativ rättskunskap*. 2nd edn. Stockholm: Norstedts Juridik. 2003. p. 57.

¹⁸ *Ibid*, p. 59.

organisation of legal principles.¹⁹ Both countries belong to the same family of law, the Nordic law system.²⁰ Countries within the same legal family often share similar legal principles and values, facilitating the understanding of each other's legislation and legal practices. In this case, the influence of employees and employers plays a significant role in shaping labour law regulations through extensive collective agreements prevalent in both countries.²¹ In such countries where trade unions wield substantial influence, certain laws serve as foundational provisions, anticipating that collective agreements will provide additional details.

1.4.1 EU legal material

To discern the implications of EU legal provisions, the EU legal method is applied, drawing on the interpretative principles of the EU Court of Justice (CJEU). The most central interpretative methods used by the CJEU include teleological interpretation, literal interpretation, and interpretation based on the context of the legal rule.²² The meaning of the analysed EU legal provisions is determined by these central interpretative principles. A balanced approach is applied, considering the material's purpose, phrasing, and context.

In the practice of the CJEU, the understanding of the substantive content of the directive is expanded and contextualised. Therefore, the jurisprudence in this area is crucial for interpreting the directive in relevant aspects for this thesis. Special importance is hence attached to the decisions of the CJEU in cases where they provide guidance on how a legal question should be understood. The Working Time Directive, as a legal source, does not inherently contain sufficient information to determine its meaning in all aspects. Furthermore, the account, to some extent, relies on interpretation communication from the European Commission.

1.4.2 Interpretations of collective agreements

First, a general disclaimer must be made. A collective agreement is a private law contract with a specific way of forming the agreement. Consequently, a collective agreement is interpreted much like a general, law-binding contract, with the intent of the parties being the most important factor when interpreting the collective agreement.²³

The essay will focus on collective-agreements and determine the implementation of the Directive in national laws. To avoid any misconceptions, the government does not own any of the hospitals and fire

¹⁹ Michael, Bogdan. *Komparativ rättskunskap*. 2nd edn. Stockholm: Norstedts Juridik. 200. p. 76-80.

²⁰ Ibid, p. 77-83.

²¹ Birgitta Nyström. *EU och arbetsrätten*. 6th edn. Stockholm: Wolters Kluwer. 2017. p. 59.

²² Jane Reichel. in *Juridisk metodlära*. Fredric Korling, Mauro Zamboni (editors). Lund: Studentlitteratur AB. 2013. p. 122.

²³ Kent Källström, Jonas Malmberg, Sören Öman. *Den kollektiva arbetsrätten*. 2nd edn. Uppsala: iUSTUS Förlag. 2019. p. 83-89.

stations that are mentioned in the essay, but these are municipal, with either municipal staff or workers hired through private companies.

There will be a mention of a total of 6 collective agreements in this study. In Sweden, there will be a mention of *HÖK 20*, a central agreement for public employees including both ambulance and firefighter personnel.²⁴ This agreement will be compared to Vårdförbundet's central collective agreement for ambulance personnel and discussed along with *Bilaga R* regarding firefighters. In Denmark, the central agreement *Landsöverenskomst 2020/2023 Falck-reddere i Provinsen* will be compared to *OK21-1561* for ambulance personnel and *OK21-33.01* for firefighters. The reason we have chosen these central agreements is because both employees working in the public as well as the private sector are included. Additional material such as other agreements and circulars will also be discussed.

The essay will discuss new changes made after the criticism from the European Commission. Some of these changes have already been implemented while others will start operating in 2024. An example of an agreement that has been bargained but has yet to be implemented is *Bilaga R* in chapter 3.2.2 of the essay. As for Vårdförbundet's agreement, a new bargain has been implemented but not yet released to the general public.²⁵ Therefore the essay will only discuss the previous agreement from Vårdförbundet as there is no way to know what changes, if any, does have been made to better meet the Commission's requirements.

1.5 Disposition

In the first chapter the reader gets a brief background on the subject, following an explanation regarding the purpose of the essay and the research question. The following headlines in the chapter goes through the method and material used for the essay, as well as the idea of the disposition of it.

The essay adheres to the funnel model in its second, third and fourth chapters, beginning with a broad approach that gradually narrows down to address the research questions. This approach is used to give a broad but at the same time specific picture of how the legal situation is handled in the area.

In the second chapter the regulation regarding rest periods, on-call and stand-by work according to the regulation within the EU. The following two chapters clarify the national legislation regarding the same subjects in Sweden as well as Denmark, and then how this has been established in some selected collective agreements.

²⁴ Huvudöverenskommelse om lön och allmänna anställningsvillkor samt rekommendation om lokalt kollektivavtal m.m. – HÖK 20. 2023-10-01. p. 4 (Accessed at <https://vision.se/globalassets/contracts/kommun-och-landsting/hok-20.pdf>).

²⁵ Vårdföretagarna. Nya kollektivavtal för privat vård och omsorg. Vårdföretagarna. 2023-06-02. <https://www.vardforetagarna.se/2023/06/nya-kollektivavtal-for-privat-var-d-och-omsorg/> (Accessed: 2023-11-28).

In order to answer the research questions, the possible similarities and differences between the countries regarding the implementation of the aforementioned parts in the directive (2003/88/EC) are discussed in the fifth chapter. An analysis and the authors' own thoughts are also covered. Finally, the last chapter ends with a conclusion of the essay.

2. Working time regulation within the EU

2.1 The Framework of Directive 2003/88/EC

The latest directive that regulates working hours in the European Union was adopted in 2003; *Directive 2003/88/EC concerning certain aspects of the organisation of working time*. But the history of the directive began already in 1990, when the Commission made a proposal for a directive regulating working time in the EU.²⁶ This resulted in the first directive (93/104/EC) adopted by the Council of Ministers on the 23rd of November 1993.²⁷ The goal of this directive, which has been transferred to the current Working Time Directive, was to ensure the health and safety of workers by establishing regulations on daily rest, weekly rest, holidays, and breaks.²⁸ The directive was adopted with the support of Article 118a EEC (new Article 153 TFEU)²⁹ which urges member states to strive for improvements, particularly in the field of occupational health and safety, to secure better health and safety for workers.³⁰

The Directive 93/104/EC excluded various sectors from its applicability under Article 1.3. To address this, another directive (2000/34/EG) was passed in 2000 to encompass these sectors within the original directive's scope.³¹ Later, the existing Working Time Directive 2003/88/EC merged and replaced the two preceding directives without any significant change taking place.³² This merge also entailed adapting the rules in accordance with the jurisprudence of the EU Court of Justice (CJEU).³³ The

²⁶ European Commission. Proposal for a Council Directive concerning aspects of the organisation of working time. COM (90) 317 final – SYN 295. (Submitted by the Commission on 3 August 1990). EUT C254 9.10.90.

²⁷ The European Council. RÅDETS DIREKTIV 93/104/EG av den 23 november 1993 om arbetstidens förläggning i vissa avseenden. *Europeiska unionens officiella tidning*. 1993-12-13. <https://eur-lex.europa.eu/legal-content/SV/TXT/?uri=celex%3A31993L0104> (Accessed: 2023-11-16).

²⁸ Ibid.

²⁹ Catherine, Bernard. *EU Employment Law*. 4th edn. 2012.

³⁰ Ruth, Nielsen. *Dansk arbejdsret*. 4th edn. Djøf Forlag. Copenhagen. 2020.

³¹ EUROPAPARLAMENTETS OCH RÅDETS DIREKTIV 2000/34/EG av den 22 juni 2000 om ändring av rådets direktiv 93/104/EG om arbetstidens förläggning i vissa avseenden för att täcka sektorer och verksamheter som inte omfattas av det direktivet. p. 41-45.

³² Tommy, Iseskog. *Arbetstidslagen och EU:s arbetstidsdirektiv*. 6th ed. Stockholm: Norstedts Juridik. 2014.

³³ Birgitta Nyström. *EU och arbetsrätten*. 6th edn. Stockholm: Wolters Kluwer. 2017. p. 394.

current legislation, Directive 2003/88/EC, will be referred to as "the directive" or "Working Time Directive" in the following part of the essay.

2.1.1 Rest periods

According to Article 31.2 of the Charter of Fundamental Rights of the European Union, workers have the right to daily and weekly rest periods of a certain minimum duration.³⁴ The definition of *rest period* is described in the second article of the Working Time Directive, stating that "rest period means any period which is not working time".³⁵ The Commission clarifies that there are three types of rest periods defined in the directive: daily rest (Article 3), breaks (Article 4), and weekly rest (Article 5).³⁶

The daily rest period must consist of at least 11 consecutive hours per 24-hour period.³⁷ This requirement is the minimum standard.³⁸ In the important EU judgement *Jaeger*, C-151/02, the CJEU clarified that the rest must occur *after* a period of work.³⁹

Furthermore, employees working more than six hours have the right to take a break. The specifics, such as the break's duration and the conditions for its provision, should be established through either a collective agreement, an agreement between labour market parties or by national legislation.⁴⁰

The regulation regarding the weekly rest can be found in Article 5 of the directive, stating that during each seven-day period, every worker has the right to a minimum uninterrupted rest period of 24 hours, in addition to the 11 hours of daily rest mentioned in Article 3. If justified by objective, technical, or work organisation conditions, a minimum rest period of only 24 hours may be implemented.⁴¹

2.1.2 On-call and stand-by

The EU defines working time as "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".⁴²

³⁴ Article 31.2. Charter of Fundamental Rights of the European Union.

³⁵ Article 2 p. 2 in Directive 2003/88/EC.

³⁶ Tolkningsmeddelande om Europaparlamentets och rådets direktiv 2003/88/EG av den 4 november 2003 om arbetstidens förläggning i vissa avseenden. (2017/C 165/01). V. Minimiperioder för vila.

³⁷ Article 3 in Directive 2003/88/EC.

³⁸ Tolkningsmeddelande om Europaparlamentets och rådets direktiv 2003/88/EG av den 4 november 2003 om arbetstidens förläggning i vissa avseenden. (2017/C 165/01). V. Minimiperioder för vila.

³⁹ Case C-151/02 *Jaeger*, paragraph 95.

⁴⁰ Article 4 in Directive 2003/88/EC.

⁴¹ *Ibid*, Article 5.

⁴² Article 2 p. 1 in Directive 2003/88/EC.

The directive does not mention specifically on-call and stand-by, and therefore it is necessary to view the practice of the CJEU, where more accurate definition and regulation around the concepts can be found.⁴³

According to the case law of the CJEU, any time during which an employee is at the disposal of an employer is to be considered as working time, including sleeping during on-call hours.⁴⁴ The case C-303/98 *Simap* declares that stand-by work however is not considered as working hours, with the exception of occasions when the response time is very short.^{45,46}

2.1.3 Derogations and exceptions

Considering the general principles of safety and health, Member States may incorporate the possibilities for derogations provided by the directive in chapter 5. Article 17.1 states that exceptions may be made from the daily rest, breaks and weekly rest provided that the nature of the work necessitates it and the length of working time is not measured or predetermined in advance or can be determined by the workers themselves.⁴⁷ The intended scope is limited to include, for instance, company executives or other individuals with independent decision-making authority.⁴⁸

The derogations from rest periods in sections 17.3-17.5 of the directive may be established through legislation or collective agreements, provided that the employee is compensated in terms of equivalent resting time or, if that is not possible, that the workers are afforded appropriate protection.⁴⁹ Furthermore, article 18 addresses that deviations may be made through collective agreements or an agreement between labour market parties at the national or regional level regarding article 3 (daily rest), 4 (breaks), 5 (weekly rest period).⁵⁰

⁴³ European Industrial Relations Dictionary. On-call working. *Eurofound: European Foundation for the Improvement of Living and Working Conditions*. 2021-12-10. <https://www.eurofound.europa.eu/en/european-industrial-relations-dictionary/call-working> (Accessed: 2023-12-10).

⁴⁴ C-175/16 *Hälvä*.

⁴⁵ Proposition 2003/04:180 *Tydligare genomförande av EG:s arbetstidsdirektiv*. referring to C-303/98 *Simap*.

⁴⁶ C-580/19 *Stadt Offenbach am Main (Période d'astreinte d'un pompier)*.

⁴⁷ Article 17 p. 1 in Directive 2003/88/EC.

⁴⁸ *Ibid*.

⁴⁹ Article 17 p. 2 in Directive 2003/88/EC.

⁵⁰ *Ibid*, Article 18 p. 2.

The CJEU has stated regarding the directive's provisions on derogations that the possibilities for derogations and exceptions must be interpreted very restrictively.⁵¹ In line with the CJEU's practice, the primary compensation for derogations should take the form of compensatory leave.⁵²

3. Working time regulation in Sweden

3.1. Legal framework: Sweden

The rules governing working hours in Sweden are primarily found in the Working Hours Act (*Arbetstidslagen; ATL*),⁵³ and further regulations can be found in the Swedish Work Environment Authority Statutory Collection (AFS).⁵⁴ Large parts of the ATL are, however, semi-dispositive in favour of collective agreements.⁵⁵

Directive 93/104/EC was implemented in the ATL in 1996, changing the previous legislation. This change was, however, merely provisionally until a new investigation had been carried out and the changes were small. An EU-minimum was created, making it clear that even if the collective agreement replaced the semi-dispositive part of the law, conditions for the employees were not allowed to deteriorate.⁵⁶ The most recent change to the Working Hours Act was implemented in 2022, where, among other things, paragraphs that are dispositive were adjusted.⁵⁷

Concerning the application of the directive regarding concurrent contracts with one or more employers, the CJEU has established that the minimum daily rest applies to the worker himself, and therefore all contracts combined.⁵⁸ Sweden has misinterpreted this, as the daily rest has been applied per worker when there are several contracts with the same employer but when the worker has more than one contract with different employers, the country has implemented the daily rest for each

⁵¹ C-151/02 *Jaeger*. paragraph 89.

⁵² C-428/09 *Union syndicale Solidaires Isère*. paragraph 50.

⁵³ Mats, Glavå and Mikael, Hansson. *Arbetsrätt*. 4th edn. Lund: Studentlitteratur AB. 2020. p. 514.

⁵⁴ Birgitta Nyström. *EU och arbetsrätten*. 6th edn. Stockholm: Wolters Kluwer. 2017. p. 403.

⁵⁵ 3 § Working Time Act (*Arbetstidslag*: 1982:673).

⁵⁶ Birgitta Nyström. *EU och arbetsrätten*. 6th edn. Stockholm: Wolters Kluwer. 2017. p. 407.

⁵⁷ Proposition 2021/22:151 *Genomförande av arbetsvillkorsdirektivet*.

⁵⁸ Judgement C-585/19 *Academia de Studii Economice din București*.

respective contract.⁵⁹ Furthermore, the court has criticised the fact that Sweden has not specified in the legislation that employers are obliged to monitor and register working time through “an objective, reliable and accessible system”.⁶⁰ The court emphasises that this is a breach of case law.⁶¹

3.1.1 Rest periods

The daily rest period is a minimum of eleven consecutive hours, while the weekly rest period is at a minimum of 36 continuous hours, with a stipulation for the daily rest to include the hours 00.00-05.00 in said rest period.⁶² According to Swedish prerequisite, a daily rest period must be scheduled during a period of 24 hours. This rest period may be scheduled either antecedent to or subsequent to a labour shift.⁶³

Breaks are, according to the Swedish Working Hours Act, defined as a time interval where the employees are allowed to leave the workplace,⁶⁴ and are free to do what they want with their time.⁶⁵ Employees are entitled to a break after five consecutive hours of work.⁶⁶ The employer, on the other hand, is required to adjust the number of breaks, depending on the labour and workplace, in order to create appropriate working conditions.⁶⁷

There is no mention of meal breaks in the legislation, but according to the government bill 1981/82:154, breaks can be used for meals.⁶⁸ The Labour Court case AD 2016 nr 35 states that the mandatory break after five hours of work is oftentimes used as a meal break,⁶⁹ which is, however, only allowed so long as the employer has a collective agreement with a union.⁷⁰

⁵⁹ The European Commission. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE: Report on the implementation by Member States of Directive 2003/88/EC concerning certain aspects of the organisation of working time. *European Commission*. 2023-03-15. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A72%3AFIN&qid=1678893509163> (Accessed: 2023-11-10) part 3 section B.

⁶⁰ Ibid, referring to Judgement in case C-55/18 *CCOO*. paragraph. 60.

⁶¹ Ibid.

⁶² 13-14 §§ Working Time Act (Arbetsstidslag: 1982:673).

⁶³ Proposition 2003/04/180 *Tydligare genomförande av EG:s arbetsstidsdirektiv*.

⁶⁴ 15 § Working Time Act (Arbetsstidslag: 1982:673).

⁶⁵ Proposition 1970/5 *Kungl. Maj:ts proposition*.

⁶⁶ 15 § Working Time Act (Arbetsstidslag: 1982:673).

⁶⁷ Ibid.

⁶⁸ 3 § Proposition 1981/82:154 *Om ny arbetsstidslag*.

⁶⁹ AD 2016 nr 35.

⁷⁰ Proposition 2003/04:180 *Tydligare genomförande av EG:s arbetsstidsdirektiv*.

3.1.2 On-call and stand-by

The Swedish legislation differs between on-call work and stand-by work.⁷¹ The distinction between on-call and stand-by began in Prop. 1970:5, aligning with the aforementioned EU's definitions.^{72, 73}

The Work Environment Authority requests that additional information such as time-cards and other information that has been the basis for the notes for on-call and preparedness and salary setting should be kept for as long as the notes themselves are.⁷⁴

The rules in the Working Time Act only apply before or in between the work that the employee performs when it comes to on-call and stand-by.⁷⁵ The maximum number of hours an employee is allowed to work on-call is 48 hours per four week-period, or 50 hours per calendar month. This number is on top of the number of regular hours worked.⁷⁶

Since the Working Time Directive was enacted, there has been many disagreements about the daily rest period for working hours, on-call and emergency preparedness.⁷⁷ However, it is important to point out that the EU does not get involved in wage settlement.⁷⁸ The Commission has also unofficially criticised Sweden for previously allowing the employers to put the daily rest period before a worked shift,⁷⁹ which contradicts the outcome of the case C-151/02.⁸⁰ With new requirements for scheduling and daily rest, wages are affected which in turn has led to a debate about why on-call and stand-by is

⁷¹ 7-14 §§ Working Time Act (Arbetstidslag: 1982:673)

⁷² Proposition 1970/5 *Kungl. Maj:ts proposition* p. 44.

⁷³ 6, 14 §§ Working Time Act (Arbetstidslag: 1982:673).

⁷⁴ *Ibid.*, p. 66-67.

⁷⁵ 6 § Working Time Act (Arbetstidslag: 1982:673).

⁷⁶ *Ibid.*

⁷⁷ Jenny Martorell. Brandmän varnar för massavhopp med nya regler: "Katastrofala arbetstider". *SVT Nyheter*. 2023-04-10. <https://www.svt.se/nyheter/inrikes/brandman-varnar-for-massavhopp-med-nya-regler> (Accessed: 2023-11-05).

Fredrik Persson. Nya regler gällande dygnsvila blir en utmaning för svensk räddningstjänst. eller!? *Swedish Firefighters*. 2023-05-30. <https://firefighters.se/2023/05/30/nya-regler-gallande-dygnsvila-blir-en-utmaning-for-svensk-raddningstjansten-eller/>. (Accessed: 2023-11-05) and Anna Sjögren. Larmet från ambulansvården: Hundratals har sagt upp sig. *Aftonbladet*. 2023-10-06. <https://www.aftonbladet.se/nyheter/a/xgkq4R/nya-regler-om-dygnsvila-halften-pa-ambulansen-i-solleftea-har-sagt-upp-sig> (Accessed: 2023-11-05).

⁷⁸ The European Union. Fördraget om Europeisk Funktionssätt (Konsoliderad version). *Europeiska unionens officiella tidning*. 2012-10-26. section 153 part 5 (Accessed at: https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0006.02/DOC_2&format=PDF).

⁷⁹ Erik Sinander. Varför är EU:s dygnsviloeregler så problematiska i Sverige? *Lag&Avtal*. 2023-06-28. https://www.lag-avtal.se/nyheter/varfor-ar-eus-dygnsviloeregler-sa-problematiska-i-sverige/3922497?fbclid=IwAR00_yRMQYrdliT63II396KT4PArm5e0BWVagsl2O420xxxZUcNM7O2b3YU (Accessed: 2023-11-15).

⁸⁰ C-151/02 *Jaeger*.

defined as working time without receiving a corresponding salary.⁸¹

3.1.3 Derogations and exceptions

One is allowed to deviate from the daily rest period, provided that there is a current collective agreement and that the EU Directive is fulfilled.⁸² Another situation in which a workplace can deviate from the law is the stipulation of no work between 00-05, provided that there is a valid reason that the nature of the work needs to be performed within the nightly hours.⁸³

3.2 Central collective agreement for first responders

First responders in Sweden are oftentimes organised in different unions depending on their workplace and region. That being said, ambulance workers and firefighters that work for a public employer in the same region are often part of the same unions and are therefore included in the same collective agreements, but when working for private employers, the professions often have many different unions to choose from.⁸⁴

One of the major trade unions representing public first responders in Sweden is Kommunal, which is one of Sweden's largest trade unions. Since it is one of the largest trade unions, we have chosen to take this as an example of a collective agreement for both firefighters and ambulance workers in Sweden.

A current central collective agreement is called *HÖK 20* and is between Kommunal along with some unions that are part of the OFR (Offentliganställdas Förhandlingsråd) on the employee side, with SKR (Sveriges Regioner och Kommuner) and Sobona (Kommunala företagens arbetsgivarorganisation) on the employer side.⁸⁵ This agreement also refers to the agreement *AB 20*, a general agreement with the same parties as *HÖK 20*, regarding general agreements for the workplaces, such as working hours.⁸⁶

The *HÖK 20* agreement along with *AB 20* will be further discussed with other collective agreements in chapters 3.2.1 and 3.2.2. Furthermore, chapter 3.2.1 will compare these with an additional central

⁸¹ Per Gustavsson. 5 steg – så bör din organisation möta NIS2. *Dagens Samhälle*. 2023-10-26. <https://www.dagensamhalle.se/native/5-steg-sa-bor-din-organisation-mota-nis2/> (Accessed: 2023-11-05). Lars Svan. Hopp om högre löner vid hårdare regler för dygnsvila, (radio programme) Dalarna: *Sveriges Radio*. 2023-09-22. <https://sverigesradio.se/artikel/hopp-om-hogre-loner-vid-hardare-regler-for-dygnsvila> (Accessed: 2023-11-12) and Nya regler ger nya utmaningar för brandmän. *Kommunal*. 2023-08-10. <https://www.kommunal.se/nyhet/nya-regler-ger-nya-utmaningar-brandman> (Accessed 2023-11-05).

⁸² Mats, Glavå and Mikael, Hansson. *Arbetsrätt*. 4th edn. Lund: Studentlitteratur AB. 2020. p 516.

⁸³ SFS 2005:165 Law to change the Working Time Act (1982:673) (Lag om ändring i arbetstidslagen 1982:673).

⁸⁴ Sveriges Kommuner och Regioner. Personalen i siffror. *Sveriges Kommuner och Regioner*. 2022. <https://skr.se/skr/arbetsgivarekollektivavtal/uppfoljninganalys/personalstatistik/personalenisiffror.46604.html>, (Accessed: 2023-12-16).

⁸⁵ *HÖK 20*. 2023-10-01. p. 3.

⁸⁶ 1 § *HÖK 20*. 2023-10-01. p.3.

collective agreement and 3.2.2 will also discuss *HÖK 20* and *AB 20* with another central agreement in order to create a thorough understanding of the collective agreement rules.

3.2.1 Collective agreement for ambulance-workers

Kommunal and Vårdförbundet are two dominant unions representing ambulance personnel. Kommunal mainly represents public employees in public hospitals,⁸⁷ while Vårdförbundet represents workers employed by both public and private employers.⁸⁸ Throughout chapters 3.2.1.1 and 3.2.1.2 there will be a comparison between *HÖK 20* and Vårdförbundet's collective agreement, in order to get as detailed a picture as possible of both the private but also the public part of ambulance work.

Vårdförbundet have bargained and signed the collective agreement called *Kollektivavtal sjuksköterskor anställda i ambulansföretag* for ambulance workers with Vårdföretagarna, a union representing the employers.⁸⁹

3.2.1.1 Rest periods

Vårdförbundet's collective agreement's main rules complies with the 11 hours of consecutive rest for every 24-hour period along with a minimum of 24 hours for every seven-day period (weekly rest).⁹⁰ When the daily rest period must be postponed, the employee is entitled to compensatory rest time for the amount of time postponed in connection with the next shift that follows. If this is not possible, the employee is entitled to their compensatory rest within a month.⁹¹ The collective agreement does not address any situation in which the weekly rest period may be postponed.⁹²

In *AB 20*, a minimum of 9 hours consecutive daily rest is required as a deviation from the ordinary 11 hours, with the stipulation that the average daily rest period is at least 11 hours for every 24-hour period.⁹³ As for postponing the daily rest, it is allowed with the stipulation that compensatory rest must be given within 14 days.⁹⁴ This deviation is also applicable for the weekly rest period, where the

⁸⁷ Kommunal. Om Kommunal. *Kommunal*. <https://www.kommunal.se/om-kommunal> (Accessed: 2023-12-07).

⁸⁸ Vårdförbundet. Vilka vi är och vårt uppdrag. *Vårdförbundet*. 2023-05-31. <https://www.vardforbundet.se/om-vardforbundet/vilka-vi-ar-och-vart-uppdrag/> (Accessed: 2023-12-07).

⁸⁹ Kollektivavtal Sjuksköterskor anställda i ambulansföretag. 2021-07-01. (Accessed at <https://www.vardforbundet.se/siteassets/rad-och-stod/kollektivavtal/ka-6559-2107-sjukskoterskor-anstallda-i-ambulansforetag.pdf>).

⁹⁰ 5 § Mom 4-7. Kollektivavtal Sjuksköterskor anställda i ambulansföretag. 2021-07-01. p. 7-8.

⁹¹ Ibid.

⁹² 5 § Mom 7. Kollektivavtal Sjuksköterskor anställda i ambulansföretag. 2021-07-01. p. 8.

⁹³ 13 § Mom 7. AB 20: Allmänna bestämmelser. 2023-10-01. p. 17 (Accessed at <https://skr.se/download/18.1747c74718bab6d36f81b31f/1699607110730/ab-20-2023-10-01.pdf>).

⁹⁴ 13 § Mom 8. AB 20: Allmänna bestämmelser. 2023-10-01. p. 22.

consecutive rest period can be postponed within 24 hours.⁹⁵ When necessary, the employer must create a plan to ensure that the rules about daily and weekly rest in the Working Time Directive are fulfilled.⁹⁶

3.2.1.2 On-call and stand-by

Both on-call and stand-by work are usually compensated with compensatory rest hours according to Vårdförbunets's collective agreement.⁹⁷ If an employee's consecutive daily rest period is disrupted because of their stand-by work and therefore need to participate in "regular" work, but the employee has had more than 11 hours of rest within the 24-hour period, the employer is not required to compensate the employee with further rest hours. This is because the collective agreement considers this as a situation in which the employee has received adequate protection from their 24-hour rest.⁹⁸ As for defining on-call and stand-by work and how many hours that are allowed to schedule, the agreement aligns with the national legislation.⁹⁹

Employers for emergency professions are in the *HÖK 20* agreement allowed to deviate from *Arbetstidslagen* and schedule stand-by work during an employee's weekly or daily rest with the precondition that compensatory rest should be given as soon as possible.¹⁰⁰ The number of on-call hours are negotiable as well with a local collective agreement.¹⁰¹ If there are disagreements regarding the scheduling of on-call and stand-by work from the worker, they should inform the employer within ten days from the time the schedule was announced to the workers.¹⁰²

3.2.2. Collective agreement for firefighters

As mentioned, *AB 20* regulates, among other things, working hours. *AB 20* in turn has sub-appendices that regulate certain special provisions for certain industries, and one of those is *Bilaga R*, where special regulations on working hours etc. for firefighters can be found.¹⁰³ The firefighters requirement

⁹⁵ 13 § Mom 7. AB 20: Allmänna bestämmelser. 2023-10-01. p. 17.

⁹⁶ HÖK 20. 2023-10-01. Anteckningar till AB. section 2b. p.15.

⁹⁷ 8-9 §§ Kollektivavtal Sjuksköterskor anställda i ambulansföretag. 2021-07-01. p. 12-15.

⁹⁸ 5 § Mom 5. Kollektivavtal Sjuksköterskor anställda i ambulansföretag. 2021-07-01. p. 7-8.

⁹⁹ 8-9 §§ Kollektivavtal Sjuksköterskor anställda i ambulansföretag. 2021-07-01. p. 12-15.

¹⁰⁰ HÖK 20. 2023-10-01. p.17-22.

¹⁰¹ 21 § Mom 8. AB 20: Allmänna bestämmelser. 2023-10-01, p. 39.

¹⁰² 13 § Mom 5. AB 20: Allmänna bestämmelser. 2023-10-01. p. 16.

¹⁰³ 1 § HÖK 20. 2023-10-01. p. 3 and Bilaga R till AB 20: Särskilda bestämmelser om arbetstider m.m. inom räddningstjänsten. 2024-02-01 (Accessed at: <https://skr.se/download/18.4d31b84f1884241175ed596f/1686315727672/23bi1329.pdf>).

for staffing every day of the year, with a constantly prepared emergency organisation, is the background to the construction of special working time regulations.¹⁰⁴

The *RiB 22* collective agreement is also between SKR and Sobona on the employer side and Kommunal on the employer side.¹⁰⁵ The collective agreement is applicable to individuals employed in the rescue service exclusively for emergency duty, also called being a part-time firefighter or a stand-by firefighter. Being a stand-by firefighter, implies that the employee holds primary employment with another employer, in addition to their role within the rescue service.¹⁰⁶ This collective agreement does not address regulation around rest, but it is still useful for the argumentation in chapter 3.2.2.2.

Due to the recent criticism that Sweden has received from the EU (see 1.1 Background), negotiations between the parties have made changes to the collective agreements. For the employees covered by *Bilaga R*, which firefighters are, the new changes in *AB 20* in § 13 and *Bilaga R* will come into effect on 2024-02-01.¹⁰⁷ Therefore, possible deviations from the agreement through local collective agreements are still under negotiation at this time.

3.2.2.1 Rest periods

AB 20 specifies that when arranging regular working hours, a worker's consecutive daily rest period can be a minimum of 9 hours, with the condition that the daily rest period does not dip below an average of 11 hours within each 24-hour period over the calculation period.¹⁰⁸ The main rule is that work and daily rest should be scheduled alternately throughout each 24-hour period.¹⁰⁹ In cases of temporary deviation, a worker's daily rest period may be less than the planned duration, as long as it does not fall below an average of 11 hours within each 24-hour period throughout the calculation period.¹¹⁰

¹⁰⁴ Ibid and *Bilaga R* till *AB 20*: Särskilda bestämmelser om arbetstider m.m. inom räddningstjänsten. 2024-02-01. p. 5.

¹⁰⁵ Överenskommelse om lön och anställningsvillkor för räddningstjänstpersonal i beredskap. 2022-05-02 (Accessed at <https://skr.se/download/18.54544beb81808a4df36f409a/1651647166336/F%C3%B6rhandlingsprotokoll%20RiB%2022%20Kommunal.pdf>).

¹⁰⁶ Sveriges Kommuner och Regioner, RiB - Avtal för räddningstjänstpersonal i beredskap. 2021-03-09. <https://skr.se/skr/arbetsgivarekollektivavtal/kollektivavtal/lonekollektivavtalvidsidanavhok/lonekollektivavtalvidsidanavhok/ribavtalforraedningstjanstpersonaliberedskap.47658.html> (Accessed: 2023-11-29).

¹⁰⁷ 13 § *AB 20*: Allmänna bestämmelser, 2023-10-01. p. 19.

¹⁰⁸ 13 § Mom 7. *AB 20*: Allmänna bestämmelser. 2023-10-01. p. 17.

¹⁰⁹ Sveriges Kommuner och Regioner. Uppgifter för cirkulär databasen: Cirkulär 23:03, 2023-01-23. (Accessed at: https://skr.se/download/18.758d83b4185a9e935d86985d/1674458935345/Cirkul%C3%A4r%2023_03%20%C3%96verenskommelse%20om%20%C3%A4ndringar%20i%20Allm%C3%A4nna%20best%C3%A4mmelser%20%C2%A7%2013%20ang%C3%A5ende%20dygnsvila%20samt%20f%C3%B6r%C3%A4ggnings%20av%20arbetstid.pdf).

¹¹⁰ 13 § Mom 7. *AB 20*: Allmänna bestämmelser, 2023-10-01. p. 17.

According to *Bilaga R*, service hours may, based on the needs of the operation, be exempted from the alternation of consecutive rest periods in *AB 20*. The total service hours may then amount to a maximum of 20 hours, and in such cases, the subsequent rest period should be continuous and at least equal to the total service hours.¹¹¹ Kommunal implies that the regulations require the employer to have explored all possibilities for staffing the operation in accordance with the collective agreement rules and determined that an exception is necessary to meet the operational needs.¹¹² Additionally, in instances of temporary deviation, a worker's consecutive weekly rest period may be a minimum of 24 hours,¹¹³ instead of 36 hours as ATL prescribes (see 3.1.1).

Bilaga R does not specify more about breaks other than that when an employee is serving in a call-out force, a break can be exchanged for a meal break.¹¹⁴

3.2.2.2 On-call and stand-by

HÖK 20 states that for the firefighters covered by the *RiB* collective agreement, standby duty can be scheduled during an employee's weekly rest period. If active work occurs during the standby duty, disrupting the weekly or daily rest, the employee should be provided compensatory rest following the rules outlined in the collective agreement *AB 20*.¹¹⁵ As for scheduling stand-by work during the daily or weekly rest, this is, as mentioned in 3.2.1.2, allowed.¹¹⁶

Working hours of up to 20 hours can be arranged without exemption, if it is justified based on the needs of the profession. In the event of such placement, the subsequent rest must be consecutive and at least correspond to the total length of service.¹¹⁷

¹¹¹ Bilaga R till AB 20: Särskilda bestämmelser om arbetstider m.m. inom räddningstjänsten. 2024-02-01. p.3.

¹¹² Kommunal. Nya regler för dygnsvila på bilaga R och J: Kommer räddningstjänsten kunna jobba 24-timmarspass? *Kommunal*. 2023-05-05. <https://www.kommunal.se/nyhet/nya-regler-dygnsvila-pa-bilaga-r-och-j> (Accessed: 2023-12-13).

¹¹³ AB 20: Allmänna bestämmelser. 2023-10-01. p.17.

¹¹⁴ Bilaga R till AB 20: Särskilda bestämmelser om arbetstider m.m. inom räddningstjänsten. 2024-02-01 p.3.

¹¹⁵ HÖK 20 referring to - AB 20: Allmänna bestämmelser. 2023-10-01. p. 24.

¹¹⁶ Ibid, p.17-22.

¹¹⁷ Bilaga R till AB 20: Särskilda bestämmelser om arbetstider m.m. inom räddningstjänsten. 2024-02-01.

4. Working time regulation in Denmark

4.1 Legal framework: Denmark

Legislation regarding working hours in Denmark can be found in the Danish Working Environment Act (*Arbejds miljøloven*).¹¹⁸

Besides this, collective agreements determine a large part of the rules on the Danish labour market.¹¹⁹ *Arbejds miljøloven* was published in 1975, and has since been updated numerous times.¹²⁰ Several aspects of the law are semi-dispositive, allowing deviations with the permission from collective agreements or the Danish Minister of Labour.¹²¹

As for the Commission's report, Denmark has received critique on the same subjects as Sweden, with the exception that Denmark has not misinterpreted the calculation for daily rest periods when an employee has more than one employer.¹²² The Commission also mentions that Denmark has not previously fully met the requirements of differing 'stand-by' work from when it is defined as working hours and when it is not, but that they now fulfil the requirements.¹²³

4.1.1 Rest periods

The daily rest period in Denmark must consist of at least 11 consecutive hours for every 24 hour period.¹²⁴ Excepted professions are shift-workers, farming workers as well as some unspecified "necessary" workers, where this minimum is lowered to eight hours consecutive rest for every 24 hour period.¹²⁵ The weekly rest period consists of a minimum of 24 hours per seven day period, with some profession-related exceptions.¹²⁶ According to *Arbejds miljøloven*, employers should try to place the

¹¹⁸ Ruth Nielsen. *Dansk Arbejdsret*. 4th edn. Copenhagen: Djøf Forlag. 2020. p. 480.

¹¹⁹ Trine Pernille Larsen. Anna Ilsøe (editor.). *Den danske model sed udefra Komparative perspektiver på dansk arbejdsmarkedsregulering*. Copenhagen: Jurist- og Økonomforbundets Forlag. 2016. p. 23.

¹²⁰ Ruth Nielsen. *Dansk Arbejdsret*. 4th edn. Copenhagen: Djøf Forlag. 2020. p. 481.

¹²¹ Bekendtgørelse af lov om arbejdsmiljø (nr 2062 af 16/11/2021. 6-7 §§.

¹²² The European Commission. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE: Report on the implementation by Member States of Directive 2003/88/EC concerning certain aspects of the organisation of working time. *European Commission*. 2023-03-15. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A72%3AFIN&qid=1678893509163> (Accessed: 2023-11-10) part 3 section B.

¹²³ Ibid, part 3 section C.

¹²⁴ 50 § Bekendtgørelse af lov om arbejdsmiljø (nr 2062 af 16/11/2021).

¹²⁵ Ibid.

¹²⁶ 51-52 §§ Bekendtgørelse af lov om arbejdsmiljø (nr 2062 af 16/11/2021).

weekly rest period on Sundays as much as possible.¹²⁷ According to the Danish Work Environment Agency (*Arbejdstilsynet*), the weekly rest period may be postponed a maximum of 12 days.¹²⁸

Through the implementation of Directive 2003/88/EC, employers should try to place the working hours between 07.00-16.00, and place breaks during a reasonable time within this frame.¹²⁹

Reasonable time means that the breaks should not be placed too early or late within the span of the scheduled working hours.¹³⁰

There is no mention of breaks and meal breaks for adult workers in the Danish *Arbejds miljøloven*.¹³¹ "Dansk arbejdsret" by R. Nielsen, however, confirms that Denmark complies with the EU Directive 2003/88/EC regarding breaks, and that employees therefore have the right to a break after six hours of consecutive work.¹³²

4.1.2 On-call and stand-by

There is no mention of neither on-call work nor stand-by work in the Danish *Arbejds miljøloven*.¹³³

However, the Danish Work Environment Agency regulates a framework for trade unions to operate within. This framework is written specifically regarding working hours for first responders and some other professions.¹³⁴

Arbejdstilsynet defines on-call as the employee being available on or near the site, prepared to work.¹³⁵ With the factor of being at the workplace or at home as a decisive component, being at home is considered resting time. Due to an on-call or stand-by shift, rest periods can be reduced or postponed. Reduction or postponement of the rest period can be done for a maximum of 10 days during a calendar month before the compensatory rest must occur.

¹²⁷ 51 § Bekendtgørelse af lov om arbejdsmiljø (nr 2062 af 16/11/2021).

¹²⁸ Arbejdstilsynet. Rådighedstjeneste og anden særlig tjeneste. *Arbejdstilsynet*. 1997-11-19. <https://at.dk/regler/at-vejledninger/raadighedstjeneste-anden-saerlig-tjeneste-5-01-4/> (Accessed: 2023-11-20).

¹²⁹ Ruth Nielsen. *Dansk Arbejdsret*. 4th edn. Copenhagen: Djøf Forlag. 2020. p. 480.

¹³⁰ Ibid.

¹³¹ Bekendtgørelse af lov om arbejdsmiljø (nr 2062 af 16/11/2021).

¹³² Ruth Nielsen. *Dansk Arbejdsret*. 4th edn. Copenhagen: Djøf Forlag. 2020. p 481.

¹³³ Bekendtgørelse af lov om arbejdsmiljø (nr 2062 af 16/11/2021).

¹³⁴ Arbejdstilsynet. Rådighedstjeneste og anden særlig tjeneste. *Arbejdstilsynet*. 1997-11-19. <https://at.dk/regler/at-vejledninger/raadighedstjeneste-anden-saerlig-tjeneste-5-01-4/> (Accessed: 2023-11-20).

¹³⁵ Ibid.

4.1.3 Derogations and exceptions

Natural circumstances such as accidents or other unforeseeable events are situations where the employer is allowed to deviate from the daily and weekly rest period, provided that these deviations are documented in writing.¹³⁶ Additionally, the Danish Minister of Labour has the authority to make exceptions for professions, workforms or positions.¹³⁷ The Minister of Labour can decrease the daily rest period to eight hours a day, along with the location of resting as well as change the hours and planning of the weekly rest period.¹³⁸

After deviating from the daily or weekly rest period, compensatory, consecutive rest periods or days ought to be granted. This does not, however, apply to persons in superior positions.¹³⁹

4.2 Central collective agreement for first responders

A current central collective agreement in Denmark that affects both the firefighters and ambulance personnel is called *Landsoverenskomst 2020/2023 Falck-reddere i Provinsen* (the Falck agreement).¹⁴⁰ This is an agreement between 3F's (*Fagligt Fælles Forbund*) member union Transportgruppen on the employee side, and *Dansk Erhverv Arbejdsgiver* representing the employers.¹⁴¹ Transportgruppen are a large and essential part of union representation for both ambulance personnel and firefighters. Dansk Erhverv Arbejdsgiver on the other hand is also a large employer-union making the *Falck agreement* relevant and of considerable importance.

The *Landsoverenskomst 2020/2023 Falck-reddere i Provinsen* will be further discussed and compared with other collective agreements in chapters 4.2.1 and 4.2.2.

4.2.1 Collective agreement for ambulance-workers

The *Overenskomst og arbejdstidsaftale OK21-1561 agreement* for ambulance personnel is a collective agreement between *Fagforening og a-kasse* (FOA) on the employee side and the Regionernes Lønnings- og Takstnævn (RLTN) on the employer side.¹⁴² The FOA is one of the largest trade unions representing employees in public professions.¹⁴³ RLTN on the employer side represents all regions in

¹³⁶ 50-52 § Bekendtgørelse af lov om arbejdsmiljø (nr 2062 af 16/11/2021).

¹³⁷ 53-54 §§ Bekendtgørelse af lov om arbejdsmiljø (nr 2062 af 16/11/2021).

¹³⁸ 53 § Bekendtgørelse af lov om arbejdsmiljø (nr 2062 af 16/11/2021).

¹³⁹ 56 § Bekendtgørelse af lov om arbejdsmiljø (nr 2062 af 16/11/2021).

¹⁴⁰ *Landsoverenskomst 2020/2023 Falck-reddere i Provinsen*. 2020.

¹⁴¹ *Ibid*, p. 2.

¹⁴² OK21-1561 *Overenskomst og arbejdstidsaftale - Ambulanceuddannet personale*, DR.

¹⁴³ Fagforening og a-kasse. Profil af FOAs medlemmer. *Fagforening og a-kasse*. <https://www.foa.dk/om-foa/regnskaber-og-tal/medlemmer-i-tal/profil-af-medlemmer> (Accessed: 2023-11-30).

the country, which means that the collective agreement is central and applicable to all regional employees within the concerned professions.¹⁴⁴

The *OK21-1561* agreement refers to and abides by the *OK 11.10.12* and *OK 11.10.10 agreements* regarding resting hours.¹⁴⁵ The agreement is between Forbundet for offentligt ansatte and FOA, representing ambulance workers with the Amtsrådsforeningen and Kommunernes Landsforening, as representatives of the employers.

4.2.1.1 Rest periods

There are many rules in the different collective agreements regarding rest periods. In order to make it clearer, a table has been created that compares the agreements with each other on certain subjects.

Aspect	The <i>Falck agreement</i>	The <i>OK21-1561</i> and the <i>OK 11.10.12 agreement</i>
Rest Periods	Adheres to Danish legislation's daily and weekly rest period as a main rule, with some exceptions outlined in the collective agreement due to the nature of the professions. Specifies rest periods after on-call and 24-hour shifts. Additionally, employees are entitled to 22 hours rest after a 24-hour shift before they are allowed to be asked to work another shift.	Complies with the legislation's daily rest as a main rule but with no mention of weekly rest periods. No specifications of minimum of rest hours regarding 24-hour shifts.
Postponement of rest periods	Allows postponements of rest periods but does not mention any other specifics than that the employee must be notified beforehand.	Allows postponing with the stipulation that compensatory rest will be scheduled within 10 days per month, preferably the following day
Interrupted Meal Breaks	Allows disruptions for emergencies. Financial compensation for interruptions and retains the right to finish their meal later.	Allows disruptions for emergencies. No specific mention of financial compensation.
Scheduling Flexibility	Local station managers can adjust lunch breaks by one hour if deemed necessary.	Through a written agreement between the local institution and a work group's shop steward, the rest time between two shifts may be reduced to 8 hours.

¹⁴⁴ Regionernes Lønnings- og Takstnævn, Regionernes Lønnings- og Takstnævn (RLTN), *Regionernes Lønnings- og Takstnævn*. <https://rltn.dk/medlemmer/regionernes-loennings-og-takstnaevn-rltn/> (Accessed: 2023-11-30).

¹⁴⁵ OK21-1561 Overenskomst og arbejdstidsaftale - Ambulanceuddannet personale, DR. p. 29 & 44.

Provisions for Specific Work and Periods	Detailed provisions for various work types and periods, detailing how scheduling should occur, including lunch breaks, regular breaks and rest hours for ordinary workers as well as on-call and stand-by workers.	No specific mention of provisions for specific periods of time or work-types.
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4.2.1.2 On-call and stand-by

Stand-by in agreement *OK21-1561* is classified into two categories: stand-by work occurring at all times outside of scheduled, regular working hours and stand-by work occurring partly outside of regular working hours.¹⁴⁶ The *Falck agreement* on the other hand, addresses on-call, stand-by, emergency stand-by and 24-hour shifts.¹⁴⁷

The *OK21-1561* agreement also refers to agreement *OK 11.10.10* in which compensatory rest must be given after stand-by and on-call work if they have not been given 11 hours, or a minimum of eight hours if this has been agreed upon in advance, rest throughout a 24-hour period.¹⁴⁸

Emergency stand-by is a concept created for the potential situation where union and employer are in a legal disagreement. Due to the nature of the profession, some employees are allowed to strike but the employer retains the right to schedule certain employees on emergency stand-by shifts as a temporary solution to ensure that the daily on-call hours are staffed sufficiently.¹⁴⁹ As for regular stand-by work, a maximum of 12 hours of effective duty can be performed during a shift, excluding meal breaks.¹⁵⁰

The *Falck collective agreement* contains provisions on the administration of the daily on-call with resting hours, with specifications for different shifts, as well as protective measures to ensure that these are followed for all staff.¹⁵¹ 24-hour shifts consist of consecutive on-call hours (16 hours) and stand-by hours for the remaining eight hours.¹⁵²

¹⁴⁶ OK21-1561 Overenskomst og arbejdstidsaftale - Ambulanceuddannet personale, DR. p. 42-43.

¹⁴⁷ Landsoverenskomst 2020/2023 Falck-reddere i Provinsen. 2020. p. 70-88.

¹⁴⁸ OK 11.10.10. Amtrådsforeningen: Aftale om hviletid og fridøgn. p.4 (Accessed at: <https://www.okportal.dk/media/16088/696.pdf>).

¹⁴⁹ Landsoverenskomst 2020/2023 Falck-reddere i Provinsen. 2020. p. 70.

¹⁵⁰ Ibid.

¹⁵¹ Ibid, p. 132.

¹⁵² Ibid, p. 134.

4.2.2 Collective agreement for firefighters

One of the largest collective agreements covering firefighters in Denmark is *Overenskomst for beredskabs- og ambulancepersonale OK21-33.01* (Agreement for emergency and ambulance personnel) between KL (Danish municipalities) on the employer side and FOA — Fag og Arbejde and Det Offentlige Beredskabs Landsforbund on the employee side.¹⁵³ As the title of the agreement already reveals, this collective agreement also covers ambulance personnel. The reason we chose to write about another agreement for ambulance personnel is to have something to compare it to in relation to firefighters. In connection with *OK21-33.01*, there is a specific agreement on working time called *Aftale om arbejdstid, forskudt tid, holddrift og rådighedsvagt*.¹⁵⁴ This agreement will in turn be compared with the *Falck agreement* as the agreement also has rules specifically for firefighters.

4.2.2.1 Rest periods

OK21-04.89 prescribes that the free period between the daily work shifts must be at least 16 hours.¹⁵⁵ However, when there is a change between work teams (shift change), the free period can be reduced to 8 hours once per calendar week.¹⁵⁶ Further reduction of the rest period can take place in accordance with local agreements.¹⁵⁷ The *Falck agreement* abides by the same rules as ambulance personnel stated in chapter 4.2.1.1 regarding daily and weekly rest periods.¹⁵⁸

For full-time employees and employees who work more than 4 hours per shift, a meal break of 0,5 h is included in the daily rest.¹⁵⁹ When it comes to the regulation regarding the weekly rest, it should normally be at least 40 hours, but never less than 24 hours.¹⁶⁰ The *Falck agreement* also demands a minimum of 30 minute meal breaks per shift of up to 10 hours.¹⁶¹ Additionally, the *Falck agreement* states that meal breaks can be postponed or be brought forward within one hour through a local

¹⁵³OK21-33.01: Overenskomst for beredskabs- og ambulancepersonale. 2022. (Accessed at: https://cms13044.hstatic.dk/upload_dir/docs/O.21---33.01-Overenskomst-for-beredskabs--og-ambulancepersonale.pdf).

¹⁵⁴ OK21-04.89: Aftale om arbejdstid, forskudt tid, holddrift og rådighedsvagt. 2021(Accessed at: https://www.kl.dk/media/kgelkg32/ok21-0489-aftale-om-arbejdstid-forskudt-tid-holddrift-og-raadighedsvagt_pdf).

¹⁵⁵ Ibid, p. 4.

¹⁵⁶ OK21-04.89.

¹⁵⁷ Ibid.

¹⁵⁸ Landsoverenskomst 2020/2023 Falck-reddere i Provinsen. 2020 p. 10-15 &180.

¹⁵⁹ OK21-33.01: Overenskomst for beredskabs- og ambulancepersonale. 2022. p. 12.

¹⁶⁰ OK21-04.89: Aftale om arbejdstid, forskudt tid, holddrift og rådighedsvagt. 2021. p. 5.

¹⁶¹ Landsoverenskomst 2020/2023 Falck-reddere i Provinsen. 2020 p.163-166.

agreement or by the management.¹⁶² The *Falck agreement* has the same rules regarding postponement of meal breaks for firefighters as mentioned in 4.2.1.1.¹⁶³

4.2.2.2 On-call and stand-by

OK21-04.89 declares that on-call or stand-by should primarily be carried out in the home, but can in some cases be exempted from this if this does not impair the effectiveness of the service.¹⁶⁴ However, the agreement does not express any difference between on-call and stand-by.¹⁶⁵

The *Falck agreement*, on the other hand, makes a distinction between regular fire stations and fire stations without obligation to answer a distress call to a fire immediately. These so called 5-minute firefighters are oftentimes scheduled for stand-by or on-call-work.¹⁶⁶ 5-minute firefighters mainly work part-time at the fire department.¹⁶⁷

Rest periods during on-call or stand-by is further explained in (04.90) *Aftale om hviletid og fridøgn*.¹⁶⁸ During stand-by duty in the home, the rest period is considered completed when the total rest period during the duty has amounted to a total of 11 hours, of which at least 4 consecutive hours must fall between 23 and the time of normal start of the day service.¹⁶⁹ If no rest period has been obtained as mentioned, the rest period or parts of it is postponed until the next day.¹⁷⁰ If the rest period is postponed in connection with on-call duty to the following working day, the overtime worked, including overtime pay, is taken as compensatory time off during the postponed rest period, possibly supplemented with the hours accrued during the on-call duty (3 on-call duty hours equate to 1 hour of paid leave).¹⁷¹

There are a number of different types of on-call and stand-by shifts for firefighters in the *Falck-agreement*. One of them is the 24-hour shift, which consists of 8 hours of on-call work and 16 hours of

¹⁶² Ibid, p. 151 & 160.

¹⁶³ Ibid, p. 164-165.

¹⁶⁴ OK21-04.89: Aftale om arbejdstid, forskudt tid, holddrift og rådighedsvagt. 2021. p. 5-6.

¹⁶⁵ OK21-04.89: Aftale om arbejdstid, forskudt tid, holddrift og rådighedsvagt. 2021.

¹⁶⁶ Landsoverenskomst 2020/2023 Falck-reddere i Provinsen. 2020 p. 61.

¹⁶⁷ Ibid, p. 64.

¹⁶⁸ OK21-04.89: Aftale om arbejdstid, forskudt tid, holddrift og rådighedsvagt. 2021. p. 5.

¹⁶⁹ (04.90) Aftale om hviletid og fridøgn af 2. september 1981. 2018 (Accessed at: <https://www.kl.dk/media/mtspawry/0490-aftale-om-hviletid-og-fridoegn.pdf>).

¹⁷⁰ (04.90) Aftale om hviletid og fridøgn af 2. september 1981. 2018.

¹⁷¹ OK21-04.89: Aftale om arbejdstid, forskudt tid, holddrift og rådighedsvagt. 2021. p. 6.

stand-by.¹⁷² After a 24-hour shift, an employee is entitled to a minimum of eight hours rest before the next day-shift.¹⁷³

During stand-by duty in the *OK (04.90) agreement*, telephone calls that do not involve ‘activity’ do not interrupt the rest period, yet there may only be up to 3 calls (without activity) between 23-07 before the rest period is broken.¹⁷⁴

5. Comparative analysis

5.1 Analysis & comparison

The purpose of this essay is to compare and take a stance regarding the implementation of the EU Directive 2003/88/EC, focusing on rest periods along with on-call and stand-by work for first responders, in Sweden and Denmark.

To make a comparison between the countries and different professions clearer, a table has been created that will give an overview of the different aspects. Additional aspects that are important to understand to comprehend the conclusion are described in chapters 5.1.1-5.1.3.

Resting periods:	Sweden-Ambulance	Sweden-Firefighters	Denmark-Ambulance	Denmark-Firefighters
Daily and weekly rest period:	Daily: 11 or a minimum of 9 hours Weekly: 24 hours	Daily: minimum of 9 hours Weekly: 24 hours	Daily: 11 hours Weekly: 24 hours	Daily: 16 respectively 11 or a minimum of 9 respectively 8 hours Weekly: 40 or 24 hours.
Postponed daily/weekly rest period:	Allowed, compensatory rest must be given within 14 days or a month.	Allowed, compensatory rest must be given within 14 days.	Allowed, must be given forewarning and compensatory rest within 10 days.	Allowed with a forewarning.
On-call and stand-by:	Sweden-Ambulance	Sweden-Firefighters	Denmark-Ambulance	Denmark-Firefighters
Rest periods during stand by work/on call	General rule: 11 hours	General rule: 11 hours.	11 or 8 rest hours, or differing depending on the type of work.	11 or 8 rest hours, or differing depending on the type of work.
Compensatory rest periods?	Must be given- within 14 days. As for weekly postponement, compensatory rest must be given within 24 hours.	Must be given within 14 days.	Must be given within 10 days	Must be given - no specifications on timespan.
Calculation Period	A month or four months	A month	As Denmark has not misinterpreted the Directive, this is irrelevant.	As Denmark has not misinterpreted the Directive, this is irrelevant.

5.1.1 The implementation in Sweden

Sweden has implemented the 2003/88/EC through national legislation and complimenting collective agreements. Because of the recent changes in the collective agreements after the criticism from the Commission this year, we will refer to the amended agreements from 2023 when comparing the collective agreements *HÖK 20* and *AB 20* in this analysis.

The rules regarding rest periods for firefighters are the same as for ambulance personnel in *AB 20* and *HÖK 20* with one exception: *Bilaga R* stipulates that the rest period should be continuous and at least equal to the total service hours. *RiB 22* abides by *AB 20* regarding rest periods during stand-by and on-call work regarding these aspects.

5.1.2 The implementation in Denmark

Deviations from the Danish Work Environment Agency are allowed through a collective agreement, as observed in Sweden, or through a provision from the Danish Minister of Labour.

The *OK21-04.89 agreement* demands a 16 hour long daily rest period as a general rule with one shift a week that may be reduced to eight hours daily rest. The general rule for weekly rest is 40 hours a week, which can be reduced to 24 hours. There is no mention of postponement in the *OK21-04.89* agreement for firefighters and so the information in the table above is based on the *Falck agreement's* rules.

During stand-by duty in the *OK21-04.89*, for firefighters, the rest period is considered completed when the total rest period during the duty has amounted to a total of 11 hours and at least 4 consecutive hours have been between 23 and the time of normal start of the day service with an exception of 3 phone calls according to the *(04.90) Aftale om hviletid og fridøgn*.

5.1.3 Comparison

The main rules generally only deviate slightly from the national legislation, which also are reasonably similar, and as the professions are mostly alike in terms of how often and serious the emergencies are along with their importance to the society, they too are relatively similar. Having researched different collective agreements, one can conclude that one of the biggest differences is the agreements themselves. The agreements discussed in Sweden are reasonably uniform and comprehensive while Denmark has greater differences in complexity in the agreements i.e. the *Falck agreement* vs. any of the *OK agreements*.

With regard to the clarification from the Commission that it is always the employer's responsibility to ensure that an employee's daily and weekly rest periods are fulfilled, this is not explicated in either of the Swedish collective agreements. As the legislation has yet to be amended after the recent criticism

Sweden still violates the directive in this matter. As for the registration of working hours in an “objective, reliable and accessible system”,¹⁷⁵ both Sweden and Denmark still violate this as it is not yet enforced in the Working Time Act.

According to the EU Commission, both countries are in a grey area regarding breaks. This is because the national legislation states that a break is mandatory after more than 6 hours of work but it is not necessarily explicitly stated in the collective agreements. Since none of the discussed agreements have expressed a deviation from the law in this matter, they nevertheless meet the requirements.

The Commission has also criticised Sweden for previously allowing the employers to put the daily rest period before a working shift, which contradicts the Jaeger-verdict. When Sweden has allowed this, it is because of Swedish case law. However, as a member of the EU, the EU’s case law has precedence, which means that Sweden needs to correct this in all future judgements as soon as the country has been alerted to the mistake.

Another important difference between the countries is the procedure for deviations from the law where both countries allow deviations through collective agreements where Denmark also allows deviations made by the Minister of Labour.

6. Conclusion

The purpose of this essay was to answer the following research questions:

How is the European Union’s Working time Directive 2003/88/EC regarding rest periods, on-call and stand-by time implemented for first responders in Sweden compared to Denmark?

Both national legislation and collective agreements deviate from some sections that are allowed in the directive. An example of this is that article 17.1 states that exceptions may be made from the daily rest, breaks and weekly rest provided that the nature of the work necessitates it. First responders perform work that is vital for a proper functioning society. However, the directive stipulates that this should not result in the employees getting less consecutive rest than any other country in the EU.

As both countries mostly abide by the directive, a comparison between the countries have not resulted in many differences. The biggest difference has proven to be the collective agreements themselves. Varying in the complexity and comprehensiveness of the agreements, one can conclude that Sweden has

¹⁷⁵ The European Commission, REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE: Report on the implementation by Member States of Directive 2003/88/EC concerning certain aspects of the organisation of working time. *European Commission* 2023-03-15. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2023%3A72%3AFIN&qid=1678893509163> (Accessed: 2023-11-10) referring to Judgement in case C-55/18, CCOO. paragraph. 60.

more uniform agreements than Denmark. That being said, for the employees, they are not necessarily better per say as the *Falck agreement* is also more complex than, for example, *Vårdförbundet's collective agreement*.

Another interesting difference regarding the implementation between the countries is the Danish Minister of Labour. Although the essay above has not discussed any specific deviations allowed by the Minister of Labour, there is a point in highlighting that hospitals and first responders in Denmark may not necessarily need to abide by the legislation or even the rules in collective agreements, therefore giving the Minister the authority to allow deviations from the semi-dispositive parts of Directive 2003/88/EC.

Based on the new changes in the collective agreements that have been made as a response to the criticism Sweden has been given from the European Commission - to what extent does Sweden meet the requirements in Directive 2003/88/EC?

Sweden has implemented the Working Time Directive 2003/88/EC rather similarly as Denmark, through legislation that mostly abides by the EU's regulations along with more detailed collective agreements. As Sweden has not amended its national legislation since the critique was given, the country still deviates from more specific regulation concerning how to register working hours. Having researched the terms for ambulance personnel and firefighters, our conclusion is that Sweden fulfils the requirements for breaks. Furthermore, the criticism Sweden received regarding how the daily rest is monitored by the employers (which needs to be described in the collective agreements since it is not regulated in national legislation), has yet to be improved upon. As for the unofficial criticism to Sweden regarding the scheduling of rest periods before or after work, this information is not stated in any of the discussed collective agreements but the outcome of the critique remains to be seen, mainly through new Swedish case law.

Consequently, Sweden needs to amend the legislation to better include the employers' obligations to oversee and monitor the employees' rest periods, even when they have more than one employer.

6.1 Authors' concluding thoughts

The EU has restricted how many consecutive hours one can work by demanding consecutive rest periods. This leads to a deadlock where the employers will not pay their employees for not performing any actual work leaving the employees dissatisfied that one is not allowed to work so many hours and therefore cannot get the same salaries as previously. A theory we, who have researched the laws, rules and the employees' dissatisfaction, have developed is to *limit the amount of on-call and stand-by shifts along with a more even distribution*. By ensuring that most of the personnel have an equal amount of on-call and stand-by hours it will be more profitable for the majority of personnel. The goal is to ensure that every employee who wants to work full-time should be able to do so without having to work an additional job to be able to cover their bills. A prerequisite for this is that the hospitals and fire

department have enough staff, which in turn leads to another problem regarding the hospital and fire department budgets. It would also be interesting to further investigate the actual meaning of “compensatory leave or appropriate protection”, and how it is applied in various collective agreements. These questions are, however, objects for another essay.

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