

WORKING TIME

TIME SOVEREIGNTY IS THE SOLUTION

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LET'S
TRANSFORM
WORK!

RECOMMENDATIONS
AND PROPOSALS FROM
THE COMMISSION ON
THE WORK OF THE FUTURE

Translated from the German
by Andrew Wilson

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Wissenschaft Forschung Strategie

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WHERE DO WE STAND?

There is scarcely a topic that is debated as intensely as *working time*. It is not only between employers and trade unions that the arguments rage, but also between employees in the workplace, in work teams and even in families and between couples. Who spends how much time, when and for what purpose (and with what degree of time sovereignty) will determine income opportunities, the chances of self-realisation and employment biographies.

This makes the time question an *issue that affects people's entire lives* – and a key issue in collective bargaining agreements, agreements on the company-level and work organisation.

Disputes around working time are as old as work itself. The key point at stake is who has the right to control and what issues are linked to working time. For employees, these are income, recovery time and opportunities for continuing training and promotion; for employers, they are the leeway they have for flexible staff deployment and labour costs.

THE STATUS QUO IS MURKY. For many years, the 'male family breadwinner cum housewife' model of the family was dominant in Germany. Today, the full-time/part-time model predominates among working couples, with women reducing their working times when they start a family. At the same time, *working-time preferences and realities are very diverse*: there is a motely collection of models for achieving some degree of work/life balance, women are more generally active in the labour market and female family breadwinners are part of the new reality.

People's preferences for structuring their working time are very diverse. Many young workers who enjoy their work, do not feel overburdened, have a good position in the labour market and as yet no care responsibilities are indifferent to the formal restriction of working time. They regard any separation or even a strict division between

work and leisure time as outdated. They want to work in a way that suits their own needs and ideas about work. In contrast, there are those who want nothing more than to restrict working time. The reasons for this vary considerably. They range from unsatisfying work to care responsibilities, interests outside work and overwork. It is this diversity of needs that makes the structuring of working time a Herculean task.

Social inequality is reflected in the volume of working time. Arguments around working time often focus on its distribution. Companies prefer greater or smaller numbers of hours for certain groups of workers. Such flexibility in staff deployment not always fits with people's needs. Low-skill workers often want to work longer hours because they are dependent on a certain number of hours per week in order to ensure their livelihoods (→ **INCOME**), while more highly skilled workers often want to work less in order to preserve their health or because they have care responsibilities.

Average weekly working time in Germany is 41.4 hours, which puts Germany in 12th position among the 28 EU member states.¹ According to figures from the Federal Institute for Occupational Safety and Health, full-time dependent employees in Germany work 43.5 hours per week on average, which is actually almost five hours per week more than the average working time as spelled out in employment contracts (BAUA 2016). What is striking is the *mismatch between time preferences and working times*. According to Socio-Economic Panel² data, 39 per cent of female and 46 per cent of male part-timers would like to increase their working times to part-time arrangement with longer hours. At the same time, 43 per cent of female and 31 per cent of male full-time employees say that they work more than they want to and than is contractually agreed.³ On average, workers in Germany have the highest volume of overtime in the euro-zone. Sixteen per cent of those who work overtime put in more than ten extra hours per week.

1 If certain statistics show shorter working times than these data from EUROSTAT (2016), it is because they include part-time workers. This quickly gives rise to the false conclusion that Germany is the leisure time world champion.

2 A longitudinal survey (panel study) of German households.

3 This discrepancy is confirmed by all studies of working time, albeit to varying degrees.

THE VOLUME OF WORK STAYS CONSTANT BUT IS DISTRIBUTED AMONG MORE PEOPLE.

More and more people are active in the labour market. The number of standard employment relationships has also risen again recently. However, according to the IAB (the Institute for Employment Research, a special office of the Federal Employment Agency) the volume of work (full-time plus part-time jobs including side jobs) has remained constant at 50.3 billion hours per year. These two statements are not mutually contradictory because the part-time rate in Germany has risen sharply since the early 1990s. The increase in the female part-time rate, at 17 percentage points, significantly outstrips that in the male part-time rate, which is eight percentage points. In 2014, 58 per cent of economically active women were working reduced hours, compared with only 21 per cent of men (WANGER 2015; HOBLER et al. 2016). The number of workers in marginal part-time jobs (so-called 'mini-jobs') has also risen (→ PARTICIPATING IN THE WORLD OF WORK). As a result, there is a large group of workers whose jobs do not provide them with an independent livelihood but are dependent on support from other household members or income from other sources (private assets, family support, social security benefits).

WOMEN ARE INTEGRATED ON A PART-TIME BASIS. The extremely unequal division of working time between the sexes is regarded as 'characteristically German'. Men do approximately ten hours' more paid work per week than women; conversely, women devote about ten hours more per week to domestic and family work. However, this distribution is not entirely a reflection of individual preferences. Almost one fifth of female employees would like to do at least five more hours' paid work, whether for financial reasons, because they are concerned about being disadvantaged in career advancement or simply because they have a pronounced inclination towards paid work (SEIFERT et al. 2016). Part-time work often goes hand in hand with low hourly pay (→ INCOME), few chances of promotion and inadequate provision for old age.

In order to avoid these traps of part-time employment, a binding right to return to full-time work is currently being discussed; the Federal Ministry for Employment and Social Affairs has published a draft bill on the matter. Such a right would make it easier to decide in favour of reducing one's hours for family and care work. Despite some belated reforms to family policy (such as the expansion of child care

provision and the introduction of the parental allowance), many mothers and fathers feel torn between the two; the world of work is still seen as not family-friendly enough.⁴ Twenty-two per cent of part-timers work reduced hours because the position they applied for was not offered on a full-time basis. An increased supply of long part-time or full-time jobs would further increase women's participation rate, as happened when childcare provision was expanded.

WORK IS INTENSIFYING. You cannot talk about the volume of work without talking about its intensity. The reduction in working time, which was still 48 hours per week in the 1950s for full-time workers, could be implemented only at the cost of work intensification. The pace and intensity of work have increased still further; productivity in Germany today is very high by international standards. Much of this is due to the acceleration of work processes as a result of automation and the increased use of information and communications technologies. According to the Federal Institute for Occupational Safety and Health, many workers attribute the feeling of overload largely to increased pressure of work and intensified processes. Consequently, the structuring of working time is increasingly being seen as pivotal to workplace health and safety (→ [WORK ORGANISATION](#)).

WORK OUTSIDE 'NORMAL' HOURS IS WIDESPREAD. Disputes around the *scheduling of working time* have always been triggered by the question of when working times that employees regard as undesirable should attract additional compensation. Certain premium payments are stipulated in law. Seventeen per cent of dependent employees work nights and/or shifts. According to census data, there has been a significant increase in weekend and evening work since the 1990s. The number of people who work 'permanently' and 'regularly' at these times has risen by around five percentage points and the number who do so 'very often' or 'often' has increased even more (BRENKE 2016). Women part-timers and low-wage workers are particularly likely to work outside standard hours. Many companies use part-timers to provide flexibility; many service occupations (e.g. in catering) are associated with working times outside the 'nine to five' norm. In some cases, this suits some people's preferences, but in other cases a

⁴ The last two reports on the family published by the federal government have referred to these time conflicts experienced by parents and carers (BMFSFJ 2006, 2012). See also ALLMENDINGER/DRESSEL 2005.

contract for non-standard working hours was all that was on offer. Although work outside the 'nine to five' norm in emergency and health services (police, hospitals) is widely accepted, the trend towards the around-the-clock society is giving rise to concerns. Researchers have warned that *collective leisure time* is being lost, which may in turn have negative effects on *social cohesion*.

MORE AND MORE PEOPLE ARE WORKING IRREGULAR HOURS. The scheduling of working hours is closely linked to their distribution. This has to be flexible if the volume of work fluctuates over the day, week, month or longer periods. Such fluctuations are usually managed by means of *working time accounts* which, according to the Federal Institute for Occupational Safety and Health, are held by 61 per cent of all employees (BAUA 2016). There is, however, little valid data available on the usage of the numerous models that are theoretically available. Most offer time off in lieu, but in some cases the credits are paid off

5 In the 2008/2009 economic crisis, these instruments proved their worth as companies were not forced to dismiss their employees and jobs were saved.

6 Moreover, the legal entitlement to ask to work part-time applies only to companies with more than 15 employees, which disadvantages those working in smaller organisations.

or used for job protection.⁵ Research has revealed the often limited control that workers have over their working hours and has identified a *division* within the labour force. Workers who are very well positioned in the labour market, those in companies that adhere to collective bargaining agreements and those who are represented by a works council have a far greater chance of having their time preferences taken into account than all other groups in the labour market.⁶

THE WORKING TIME CONFLICT IS BEING INDIVIDUALISED. The EU Working Time Directive, national working time legislation, collective bargain-

ing agreements and agreements on the company level draw on research findings to lay down standards for the organisation of working time. They are the metaphorical handholds and guardrails that help employees to assert their working time preferences. This is important because employers are increasingly expecting scheduling by the employees themselves, for example when they are free to work when they wish provided their targets are met within a certain time frame. However, there will be only very limited control over working time if there is no influence over work processes, if the targets are set too high or if staffing levels are too low (→ [WORK ORGANISATION](#)).

Working time disputes sparked by new forms of work are no longer played out solely between employers and employees or within work teams but also *within individual employees themselves* (DUNKEL/KRATZER 2016; HANDRICH et al. 2016). Time stress and overload can be the consequences. Attempts at finding a solution are often intended not to eliminate structural problems (such as inadequate staffing levels or poor work organisation) but rather to optimise individual time management skills. Thus flexible working time does not automatically mean a better work-life balance. It can only lead to solutions that satisfy the interests of both sides if working times can be scheduled in advance and employee control over working time is actually guaranteed (i.e. is stipulated in law, in collective bargaining agreements or in employment contracts).⁷

CORPORATE CULTURE AS A SOLUTION? Greater significance is often attributed to a company's mode of work organisation and its *time culture* than to formal agreements. There are numerous examples of sustainable human resources policies in companies, but the extent to which individual time preferences are realised varies considerably depending on employees' status within the company and their labour market position (KLENNER/LOTT 2016). Many working fathers still bemoan employers' reluctance to agree to reduced working hours. The rights to leave of absence for volunteer work or to care for family members is not exercised in many companies. Even for highly skilled workers, there are barriers: frequently there is a failure to realise that management positions can also be divided or carried out by part-timers (→ WORK ORGANISATION).

⁷ Only 38 per cent of employees are largely able to determine their start and finish times (BAUA 2016).

WHAT SHOULD WE BE PREPARING FOR?

People's working time preferences are likely to become further differentiated in the years to come. Many workers will have family members to care for, which will give rise to further demands for flexibility. If continuing training is to become a normal part of the life course, repeated time-out periods will have to be granted. Some people will continue to work full-time without interruption for the whole of their working lives, but they will be mainly women without children and men. At the same time, however, other models will gain acceptance and become widespread. Management and works councils will be required to find creative solutions for this.

FLEXIBILITY REMAINS CONTRADICTIONARY. Many companies leave the organisation of working time to their employees. In these cases, many employees start work early in the morning, then take a number of breaks and sometimes complete their tasks late in the evening. The advances in information and communications technologies have made *mobile working* possible. For many, this flexibility is just what they are looking for. At the same time, research on sleep and health has shown the negative effects of a working day without a definite end (CRARY 2014). Moreover, when people resume work for a brief period, they often do not count that time as working time, which can lead to a *creeping expansion of total working time*. Yet from a technical standpoint, it has never been easier to record working hours accurately. It would also be possible to place a limit on working time by making use of 'digital shift work', in which globally networked workers organise themselves into job-share pairs.

IS TIME LOSING ITS IMPORTANCE AS A YARDSTICK? For a long time, employers have managed their employees' effort by means of performance targets rather than working time. This trend will continue, in high-skill jobs and beyond. Thus the regulatory requirements concern not only the question of working time but also performance

expectations. This is a particular challenge in Internet-based crowd work. At the same time, however, the wide-ranging public debate on excessive demands at work and exhaustion is part of an observable trend towards ‘limiting the removal of limits’. The younger generation in particular (‘Generation Z’ or the ‘post-millennials’) is ‘always on’, but nevertheless (or maybe precisely for that reason) seems to want a clear division between work and leisure time (SCHOLZ 2014).

WORKING TIME POLICY MUST KEEP PACE WITH CHANGED REALITIES.

If men and women become equally involved in paid work, the pressure on *families’ time planning* can only increase. If the problem of making working time sufficiently flexible to meet the demands of families is not resolved, there are likely to be negative effects on family life, couples’ decisions on starting a family or having more children and on workers’ health. Furthermore, it is already evident that predominantly individualised solutions force unwanted flexibility on others, e.g. care workers. Demand for support services rises, which in turn leads to an increase in work outside the ‘nine to five’ norm and on weekends. Thus the options for socially acceptable and collective leisure time in the wider society remain to a large extent dependent on the extent to which solutions to the changing time requirements can be found in the workplace.

WILL GENERAL WORKING TIME REDUCTIONS MAKE A COMEBACK?

After generalised linear reductions in working time stalled, the various scenarios for digital change and its potential for rationalisation have ratcheted up the debate on working time. For many people, technical change has awakened hopes of a new age of ‘temporal affluence’. The notion of a solidaristic redistribution of the volume of work in order to prevent job losses is gaining increasing acceptance. At the same time, the current working time norm is coming under pressure because of women’s increasing participation in the labour market. How can full-time work be defined and organised in such a way that it recognises family and care work as socially necessary work? Many of the debates and proposals on how to reconcile paid work and care work, how to slow down the so-called ‘rush hour of life’ (i.e. the phase in which most of life’s major tasks are concentrated) and how to change the family division of labour are aimed at safeguarding livelihoods and opportunities for participation (e.g. in training) for those working less than full-time.

WHERE CAN WE BEGIN?

The debate on working time policy touches on the central question of the *weighting of interests or preferences*. How can flexibility serve the needs of business and the economy while at the same time being organised in a socially acceptable way that affords workers time sovereignty? In view of the pressing problems that arise when it comes to reconciling paid work and care work and the health risks for employees, which generate massive costs for a society based on the principle of mutual solidarity, it is essential that a balance be struck between conflicting interests. An ageing society, the rise in women's labour market participation and, not least, the increased demand for training make the time question one of the key issues in managing digital change.

PLURALITY IS THE NEW NORMALITY

In the wake of women's increasing involvement in the labour market but above all because of the current diversity of employment forms, the distinction between 'standard working time' and 'flexible' or 'atypical' working time is becoming increasingly obsolete (→ PARTICIPATING IN THE WORLD OF WORK). Women are very much in demand in the labour market and need flexible working time models in order to be able to balance paid work and family responsibilities; men too no longer adhere to the rigid norm of full-time employment throughout the whole of their working lives. However, despite the obvious diversity of forms of working time, the old mechanisms of a 'fictitious' normality continue to exert an influence. Anybody who reduces their working time, whether occasionally, in the interests of flexi-

bility or permanently, in order to devote more time to their families, to take care of relatives, to do voluntary work or to retrain, to take an enforced break because of work overload or simply to enjoy more free time, indulge in a hobby or have a less hectic daily routine, abandons the old norm and as a result, and despite all the improvements of recent years, still has to deal with the negative consequences.

FOOD FOR THOUGHT SURVEYING WORKING TIME PREFERENCES IN THE WORKPLACE

Numerous representative surveys and industry-level evaluations confirm how diverse working time realities and preferences are. These insights into the motives and needs of those seeking flexible working times are helpful at company level so that employees' needs for flexibility can be considered. However, they tell us nothing about employees' actual preferences or, where relevant, their 'time crises'. Consequently, companies should be required every few years to conduct a *survey of working time preferences*.

The data obtained this way can be used as the basis for devising new flexibility models, whether for the company as whole, for individual departments or for specific groups of employees. This will benefit not only employees but employers as well. By having at their disposal information on the changes required in their processes and rules, they will be able, firstly, to avoid the adverse side effects of time stress, such as demotivation, illness and high turnover, and, secondly, to make their processes more efficient and deploy their workforce more effectively.

FOOD FOR THOUGHT USE WORKING TIME AS AN INSTRUMENT TO SHAPE THE FUTURE

The purpose of working time policy is not simply to react to existing need and to balance out conflicting preferences for availability and leisure time. Rather, the organisation of working time must be seen as an opportunity for changing the world of work and its time arrangements (and hence society as a whole) in such a way that *future challenges* can also be managed.

Flexible working times are the answer to the ‘care crisis’ and ‘exhaustion as a national disease’ – as well as to the campaign that is required to increase participation in continuing training. The German social partnership is internationally recognised for its record of devising *innovative working time models*. If flexible working time arrangements are made more widely available, then it is highly likely that employees’ preferences will also change.

This has already been demonstrated in the case of childcare, where an expansion of provision led to an increased demand for employment. Even working time reductions introduced by companies in order to protect jobs have triggered new time preferences. Many employees whose working times were reduced for economic reasons (e.g. at Volkswagen or the automotive component supplier Bosch in Stuttgart) subsequently preferred to stay on the shorter hours because they had found new priorities in their lives.

→ FOOD FOR THOUGHT PROVIDE BETTER INFORMATION ABOUT WORKING TIME OPTIONS

Whether or not employees take advantage of the various working time options open to them is very closely linked to whether they actually know anything about them and whether they view them as 'legitimate', regardless of any legal entitlement.

It can be concluded from research findings that many workers are not well informed about the various options for leave or other support measures; information on care leave seems to be particularly lacking. At the same time there is evidence that working time preferences are frequently put on the back burner when there are staff shortages. It can be supposed, therefore, that new statutory instruments, e.g. aimed improving work-life balance, will not be effective at company level unless they are made known and promoted. It would seem necessary, therefore, to review the arrangements for disseminating information. Human resources departments and works councils have an important role to play as information multipliers.

NEGOTIATING ON EQUAL TERMS

However diverse employees' working time realities and preferences may be, criteria for the negotiation of working time can nevertheless be specified. The extent of *participation and autonomy* is fundamental. To date, however, they have been granted on a limited basis only. According to the German Trade Union Confederation (DGB) and its Good Work Index, almost two thirds of employees may take a day off on short notice, but 41 per cent have virtually no voice in decisions on the scheduling and duration of their working time. Eurofound's company survey also shows that only 32 per cent of companies offer the majority of their employees the possibility of adapting their start and finish times to their needs. Fourteen per cent can decide on the spur of the moment to work at home. According to the DGB, it is not unusual for employers to alter work schedules on short notice: one in every six employees states that their working times are changed frequently or very frequently this way by their employer. More than two thirds of these changes take place on the day before or even on the same day.

FOOD FOR THOUGHT LAY DOWN RULES OF PROCEDURE

The need to have time for care work, rest and recovery and training is a concern for individual employees as well as for companies and society as a whole. A way must therefore be found to strike a better balance between employers' expectations of availability and employees' desire for time sovereignty, thereby ensuring that employees' health is protected better.

The Commission regards the current regulatory framework, with its gradation of legislation, collective bargaining agreements and agreements on the company, as successful. At the same time, however, it also considers it necessary to open up the opportunity to exercise time sovereignty *throughout the working population*. Time sovereignty must also be made possible – with a good chance of being imple-

mented – in those sectors of the economy where there is no coverage by collective agreement and no staff or works councils; it must no longer depend on the whim of a supervisor, on the size of a company or on a company's culture.

The Commission proposes, therefore, that *rules of procedure* and hence a *collective framework for individual negotiations on equal terms* should be established. In order that employees have options for participation regardless of their labour market position and status within the company, 'handholds' to support and guide them should be built in *along the chain of formal rights*:

— An *entitlement to discuss* working time, place of work and work schedule could be incorporated into the *Part-Time and Temporary Employment Act*, together with an *obligation on employers to justify* any refusal of an employee's wishes. There is no intention in making this proposal to ignore operational requirements; rather the *participation processes and conflict resolution mechanisms* should be designed in such a way that individual employees are given real options to fulfil their interests, which are socially desirable as well. The *Works Constitution Act*, which since 1981 has placed the reconcilability of family life and paid work within the remit of works councils, could be amended to include a right of codetermination in the matter. Works councils could then effectively mediate the time preferences of employers and individual employees.

— *Collective agreements and agreements* on the company level could adopt this basic philosophy and lay down procedures for planning and or negotiating working time, using the legal framework to arrive at industry- and company-specific provisions.

Many works councils find themselves in a difficult situation. They cannot ignore violations of statutory and/or agreed limits on working time and are obliged to draw attention to health risks; however, they do not want to be pushed into acting as the 'working time police'. They respect employees' personal responsibility, but their role obliges them to address concerns not only about the risks of excessively long working hours but also about the power asymmetries that characterise working time negotiations. Regulations that employees identify with, decided on through participative processes, also increase acceptance of the works councils' role in working time issues. Companies also benefit if the workforce is deployed in a sustainable fashion, since the costs associated with labour turnover and sickness are reduced and skilled workers are more easily retained.

Nevertheless, *learning processes* are still necessary on several levels. Works councils and human resources managers must first accustom themselves to the diversity of employees' working time preferences and then recognise that a one-size-fits-all working time norm is increasingly being called into question. A balance between the various working time preferences within a team can be successfully struck, but only if team members have received the necessary training and/or appropriate support from management. In small and medium-sized enterprises in particular, it will be necessary to provide specialist advice on the introduction and successful implementation of such negotiating processes.

Also of crucial importance are the *rules on maintaining staffing levels* when employees take time out or working time is reduced, so that adverse side effects such as work intensification and work overload for co-workers, as well as conflicts within work teams, can be avoided (**→ WORK ORGANISATION**).

POINT OF CONTROVERSY COMPENSATE FOR LACK OF TIME SOVEREIGNTY

However much the proposal for rules of procedure is motivated by a desire to create a regulatory framework for flexibility that works in the interests of employees, it is foreseeable that in certain areas there are fewer possible options for working time sovereignty, particularly for those who regularly work shifts and are employed in organisations that operate 24/7.

Consequently, efforts should be made to find ways in which employers might *compensate* employees whose jobs offer little if any scope for flexibility with regard to the place of work and the scheduling of working time. Such compensation can be justified, firstly by the negative health implications of shift work, for example, and secondly from the point of view of fairness.

Some companies have already introduced collectively agreed measures that offer pointers as to how such compensation might be organised. Deutsche Telekom's customer service division, for example, offers employees who work weekends and other non-standard times compensation in the form of a working time reduction in the following month. Extra time off would also be a conceivable form of compensation in situations in which control over working time is not or cannot be granted. While large companies are more easily able to manage such compensation, this is not necessarily the case in small companies, particularly in sectors in which flexible working times are not possible for the majority of the workforce.

Consequently, the possibility of government support, e.g. by (partially) offsetting the additional costs of model working time arrangements in SMEs, should be considered (even though this suggestion was a controversial one within the Commission).

→ FOOD FOR THOUGHT RESTRICT THE SPREAD OF WORK ON DEMAND

The diametrical opposite of time sovereignty is capacity-oriented variable working time. This work ‘on demand’ prioritises operational requirements in a completely unacceptable way. Nevertheless, according to the IAB, 13 per cent of companies with more than ten employees use this form of flexibility, which is permitted by the Part-Time and Temporary Employment Act. The (technically) self-employed service providers who receive work via online platforms (e.g. courier services) also work on this principle.

People engaged in this form of work are usually poorly paid because the time between jobs is not remunerated, in contrast to being on-call or stand-by. They also have to accept considerable restrictions on planning their lives and organizing their free time. Is true that there is a statutory period of prior notice (four days), but in practice this is more or less ignored. Such a one-sided arrangement, determined solely by the employer, is regarded as *contra bonos mores* in Austria. In Switzerland, the law at least stipulates that stand-by time must be remunerated. Thus § 12 of the Part-Time and Temporary Employment Act, which permits work on demand, could simply be struck out, which would leave the risk for fluctuations in workload squarely with the employer. Another option would be to follow the Swiss example and ensure that stand-by time was remunerated.

It is also important to continue to reject zero-hours contracts, as used in the UK for example. Workers on these contracts are paid only for the hours actually worked and the employer is not obliged to provide any minimum working hours.

WORKING TIME LIMITED

Germany is regarded as the eurozone's overtime 'champion'. If full-time employees constantly exceed their contractual working hours, this is not only damaging to their health but can also give rise to costs due to illness, workplace accidents and early retirement. Overtime is also a factor in the reconcilability of paid work and care work, since anyone who is constantly working overtime is hardly in a position to take on any care work or to support family members and/or partners who do so.

In the debate on restricting overtime, it is argued time and time again that these extra hours are worked by employees for whom no substitutes are available. In fact, however, research has shown that it is absolutely not just skilled workers in short supply who do overtime. Overtime is worked across a whole range of sectors by employees of different statuses and skill levels. In a survey conducted by the Federal Institute for Occupational Safety and Health, 18 per cent of respondents gave enjoyment of their work as a reason for working overtime, while 6 per cent declared that they worked the extra hours for private reasons (e.g. to earn extra money). The rest of the respondents (76 per cent) cited operational requirements (BAUA 2016).

→ FOOD FOR THOUGHT RETURN TO AGREED WORKING TIMES

In order better to protect employees' health and to permanently strengthen employability, the motto must be: 'The contractual working time is the actual working time'. There should be incentives to avoid excessively long working times and additional hours. For health reasons, all hours worked in excess of the contractually agreed limit should be compensated for as quickly as possible with time off in lieu. Those shaping working time policy are called on to put this principle into operation and bring actual working times closer to the contractually agreed limits again. Works councils need a lever in order to be able to call for increased staffing levels if the agreed working time is exceeded regularly (→ **WORK ORGANISATION**). *Transparency in planning and organising working time* at company level and *dialogue about appropriate working times* are important basic principles for this.

POINT OF CONTROVERSY MORE RIGOROUS RECORDING OF WORKING TIME?

How are the agreed working times to be successfully adhered to if employers refuse responsibility or delegate it to employees – and when it is often employees themselves who, for whatever reasons, fail to record the hours they work?

The Commission vigorously debated proposing a *statutory obligation to record working times*. Supporters see this as a possible way to limit the creeping devaluation of work. Furthermore, the technical means of recording working time are better than they have ever been in the past and in no way amount to the bureaucratisation of work (and hence to a further demand on employees). Technological change has produced sophisticated instruments (e.g. apps) that can effortlessly record the hours actually worked, making them visible to companies and to employees themselves. Naturally, data protection and

codetermination rights will have to be respected in the process. Data deletion routines could be of assistance here; standardised digital systems for use across entire industries, developed with input from the parties to collective bargaining, should also be promoted.

On the other side of the argument, there were doubts that recording working times in the digital age was in the employees' interest. There were said to be particularly strong objections among highly skilled employees to any obligation to document working times. Moreover, recording working times was not the right way to address the entirely justified concern to stop working time from getting out of hand. What was needed instead was a good working time culture in the workplace and realistic staffing levels (→ [WORK ORGANISATION](#)).

As a result of digital change, the question of the number of hours worked has become more topical than ever. If more people are no longer employed by just one company but are working for several clients, then this puts a completely different slant on the whole issue of working time. Although, according to FUCHS et al. (2016), only 8 per cent of workers held multiple jobs in 2016 (with a high degree of underreporting), their employment situation and workloads cannot be ignored, since the costs that arise are borne by society as a whole if the consequences are illness, incapacity for work or the abandonment of any plans to start or expand a family.

Technological progress has made *mobile working* possible in new ways. Workers now have the option of working from home or in completely different places (mobile teleworking). Working from home and other forms of digitally mediated mobile working offer workers – particularly the growing number with long commutes – the possibility of avoiding travel time, thereby contributing to a better work-life balance. Working from home can also mean fewer disturbances than in open-plan offices, for example.

According to the German Institute for Economic Research (DIW), 8 per cent of dependent employees currently mainly or occasionally *work from home*. Because of their job profiles, 58 per cent of employees are excluded from mobile working. Although 61 per cent of employees

who currently do not work from home do not aspire to do so in the future either, one third would like to, at least occasionally. Despite the ongoing debate on mobile working, the share of people working from home has not risen since 2013. Only one third of companies currently offer employees the option of working from home (DIW 2016).

However, according to a report on 'Mobile working/Working without limits' published by the Federal Ministry for Employment and Social Affairs, *employers' expectations of their employees' availability* have increased (BMAS 2015). Only in 16 per cent of cases is working from home actually contractually regulated. The consequence is that 56 per cent of employees who work from home without such regulation work outside the standard agreed working time. Seventy-three per cent receive no compensation for overtime. Employees working from home put in 43.5 hours per week on average, which is longer than provided for in their contracts.

Mobile working enables employees to save time and gain some freedom, but it also has its dark side. *Desk sharing models*, which are linked to working from home and are intended, for example, to save office costs (rent, energy, cleaning) and for that reason do not provide sufficient work space at the company's premises, may have a negative impact on work quality. Not only can an artificial shortage of office work stations lead to people playing a sort of 'musical chairs' around the building or feeling 'homeless' at work but deliberate underequipping of this sort can also trigger feelings of permanent insecurity about one's job.

→ FOOD FOR THOUGHT MAKE MOBILE WORKING POSSIBLE

Experiences to date show there is a need to formalise digital mobile working so that its advantages can be realised and the risks minimised.

Since mobile working requires a high-trust culture and responsible behaviour on the part of managers and employees, the Commission recommends that *guidelines* should be laid down for the organisation of home working (alternating teleworking: working both from home and at the office) and mobile teleworking.

The Commission also recommends that a (conditional) legal entitlement to mobile working should be introduced. In principle, all employees should have the right to mobile working, whether from home or elsewhere. It should be *incumbent on the employer to justify a refusal*. Furthermore, the right for individuals to determine the scheduling of their own working time should be strengthened.

Nobody should be forced to work from home. If mobile working is not required for operational reasons, it should be *voluntary*. It is important that employees should not be putting themselves at a disadvantage if they do not want the option of working from home.

Working from home requires not only a culture of trust but also *information management*. The integration of colleagues working from home will be an increasingly important part of management's remit in the future. Expectation management is also important. Clear rules are required to determine when home workers may be contacted.

The time spent on mobile working *must be time on the clock*.

Mobile working raises *questions of data protection*. There must be guarantees that mobile workers will not be subjected to surveillance.

SUPPORT TIME FOR CARE WORK

At least since the Federal Statistical Office's time budget survey confirmed the economic importance of care work, its *social significance* and *economic value* have been highlighted far and wide. For a long time, it was possible to remunerate this work only indirectly, via the traditional family division of labour and single breadwinner wages. This option, however, has been increasingly weakened. Changing gender roles, the changes in spousal maintenance following divorce and the evolution of earnings have eaten away at the foundations of this model. Consequently, the policy for some years has been to professionalise care work, to expand the infrastructure and increase the opportunities for employees with care responsibilities to take leave.

The *race to make up for lost time* in putting in place an *emancipatory family policy* has been successful to the extent that there are now a number of instruments that can be used to support workers in their responsibilities. The main ones are the parental allowance (Elterngeld) and its extension, the so-called ElterngeldPlus or 'partnership bonus' (intended to make it easier for mothers and fathers to combine child-care and part-time work), care leave and the recent proposal for family leave, in which couples would be given incentives for both partners to reduce their working time, with partial wage compensation.

However, evaluations show that not all these instruments have yet taken full effect or that not all are fulfilling the needs they seek to address (JÜRGENS/FEHR 2016). For example, when a need for elder care arises, employees tend to use their holiday entitlements instead of claiming the statutory leave. The issue seems to be taboo, especially in small and medium-sized enterprises (REUYSS et al. 2014). It is still less common for men to take on elder care work. According to reports from the health insurers, around two thirds of privately provided elder care work is done by women.

→ FOOD FOR THOUGHT A FLEXIBLE TIME BUDGET FOR ELDER CARE

The introduction of the care allowance (for those caring for relatives full time) and of *family care leave* has created options for combining paid work and elder care responsibilities. Nevertheless, take-up remains limited, with men in particular reluctant to make use of these instruments.

This is due, firstly, to the *inadequate level of wage replacement* and, secondly, to the fact that care leave is still *too inflexible*. Caregivers do not usually need a fixed reduction in their working time but rather a number of hours off they can take as and when they need them. As many evaluations now stress, leave granted within the framework of a *time budget* would better meet the needs of both caregivers and those they care for. Thus a budget of 1,000 hours, for example, could be established and then drawn down as required over a longer period of time. Procedures must be put in place that give caregivers as much flexibility as possible but also give employers a certain degree of planning certainty. The introduction of a care leave budget that could be drawn down as required would have the advantage for both employers and employees of making working time reductions (and hence reductions in income as well) or complete withdrawal from the labour market unnecessary.

Despite the various instruments that exist to help workers strike a better balance between paid work and care responsibilities, the reality on the ground is sobering. Many workers unwillingly quit their jobs or have to reduce their hours considerably in order to care for family members (REICHERT 2013). This has serious consequences for their ability to secure their livelihoods and for the development of the German labour force to its full potential. Poverty in old age and a shortage of skilled workers are the adverse side effects that are already making themselves felt.

While demands for improvements to the infrastructure, additional family policy instruments and flexible working times are common-

place, it is less acknowledged that *income* also represents a significant hurdle. Under the current circumstances, many couples have no choice but to adopt the traditional division of labour. Men's incomes are on average higher than women's. Thus *narrowing the gender pay gap* is a fundamental precondition for care leave and a more equitable distribution of it (→ INCOME).

→ FOOD FOR THOUGHT A WAGE REPLACEMENT BENEFIT FOR CARE WORK

To be able to do care work, many employees need to see a *reduction in their working time*. However, for many people in the lower income brackets, a reduction in working time is a severe economic blow. For financial reasons, many couples have no alternative to the traditional family division of labour or even two full-time jobs. The Commission considers such a situation to be behind the times. It is neither consistent with the notion of participation nor does it constitute a move towards greater gender equality. Consequently, a drive to implement pay equity is essential (→ INCOME). At the same time, however, it is incumbent upon society to support temporary working time reductions for those with care responsibilities, both financially and in terms of working time arrangements. The social partners cannot resolve this issue on their own.

The Commission proposes, therefore, that workers should be granted periods of reduced working time in order to provide care and that they should be paid a *wage replacement benefit* (higher in percentage terms for those with low pay). It is a matter for discussion whether there should a similar benefit for higher earners as well, albeit one that is lower in percentage terms. One argument in favour is that it is important that people with managerial responsibilities, who can act as role models, should also reduce their working time in order to do care work. Experience with the parental allowance has shown that financial incentives are required for this. If men also reduce their working time and assume responsibility for care work, women will be freed of the burden of family work and will be able to enter the labour market. However, above a certain income level, working time

could easily be reduced without financial compensation. Society as a whole will have to come to an agreement on this issue.

It should be noted that, in certain wage brackets, a benefit that replaces a certain percentage of the previous wage (e.g. 68 per cent as with the parental allowance) would not be sufficient to live on. For these groups, a higher wage replacement benefit will be necessary, so that family-friendly working time models do not remain the preserve of higher earners. The same applies to single parents: the case for higher benefits should be examined for them as well.

TIME, FOR ITS OWN SAKE

The debate on working time usually focuses on the care of children and other family members, but increasingly also on retraining. Little consideration is given to the idea that, over the course of a long working life, it must also be possible simply to stop working just in order to take a fairly long break – without any specific purpose or justification. Granting a period of time out would also benefit employers. It would be more than just a way of expressing appreciation for employees and the efforts they have put in. Employees would have new experiences and return to work refreshed and with renewed motivation. And not least, periods of time out may also be a kind of preventive health measure.

→ FOOD FOR THOUGHT A RIGHT TO TIME OUT FOR NO SPECIFIC REASON

The Commission recommends that workers should be granted an entitlement to *periods of time out without any specific justification*, during which their employment relationship and social insurance entitlements would remain in place.

The reference point here could be the notion of *sabbatical*, which is available to employees in the public services provided there are no countervailing operational reasons. Employment relationships remain in place during the period of leave. If the sabbatical is taken on the basis of a working time model (e.g. a long-term credit account), then employees basically retain their social insurance cover. In the private sector, such periods of time out are not yet an established element of employees' entitlements. But there are models that can be built on. At the aircraft manufacturer Airbus, a company-wide agreement entitled 'Care for Life' allows employees to take up to one year's leave, with special financial arrangements to support the sabbatical. And a number of pioneering collective bargaining agreements already provide for periods of time out lasting between three and nine months once an initial 'saving up' phase is complete (cf. the collective agreement in the German chemical industry).

Here too, the *lowest income groups* merit special attention. If such periods of leave are not to remain the preserve of higher earners, consideration should be given to introducing longer 'saving up' periods or even wage replacement benefits for these groups. In the case of occupations in which it is demonstrably almost impossible to work until retirement age because of the particular strains, wage replacement benefits could well be justified.

CONVERT PROGRESS INTO TIME OFF

Although proposals for working time reductions usually meet with approval from all concerned as well as from policy makers when the aim is to safeguard jobs, there is a complete reversal when what is proposed is a *linear reduction in working time* for all. While some point to the already widespread shortage of skilled workers induced by demographic change, others simply do not see room for a reduction with full wage compensation. At the same time, however, one of the consequences of the digital transformation is forecast to be enormous productivity increases, even though those forecasts are not yet reflected in economic analyses (HORN et al. 2017) (→ **FRAMEWORK FOR CHANGE**).

The debate on a collective working time reduction has stalled not least because workers themselves have been reluctant to campaign for such a reduction. Instead, the focus has been on the *organisation of working time*, i.e. flexibility both day to day and over the course of the working life, from which many workers hope to gain more advantage – particularly since working time reductions often also mean work intensification. However, if care work, retraining and the rest and recovery that is essential in an ever more intense and fast-moving world of work are becoming necessary for everyone – men and women, young and old alike –, should technological progress not also open up room for more free time?

POINT OF CONTROVERSY SHOULD WE VENTURE A STEP TOWARDS A LINEAR REDUCTION IN WORKING TIME?

The question of a *general reduction in working time* in the future was vigorously debated by the Commission. Those opposed to the idea regard such a collective reduction as out of step with the times because working time preferences today are so diverse. Flexible scheduling and distribution of working time and greater time sovereignty are more urgent issues, they argued. Supporters, on the other hand, regard a collective working time reduction as a positive contribution to the quality of life. However important working time flexibility may be, time sovereignty always refers to the volume of paid work as well, it is argued. Consequently, a reduction in working time would also provide a reference point for enforcing a limit on working time and for accommodating workers' interests outside of work. A reduction in the standard working week is necessary, supporters argue, not only in view of the distribution of care work but also because of the potential for automation that digitalisation entails.

At its 2015 national congress, the service workers' trade union ver.di adopted 'short full-time work with full wage compensation and maintenance of staffing levels' as its guiding principle. That objective certainly cannot be achieved without some tough negotiations, but the goal of reduced working time is also seen as a 'positive utopia' to which it is possible to draw ever nearer in a series of 'achievable interim stages'. One such interim stage could be the 35-hour week for all full-time employees, which has already been introduced in some sectors. A linear working time reduction does not have to be conceived as a rigid cut. As Volkswagen demonstrated as far back as 1994, collective agreements can provide for 'breathing' working time models in which the hours worked can fluctuate within certain limits and are managed by means of working time accounts. However, no proposal will meet with acceptance unless the plans for *maintaining staffing levels* are clarified, so that the cut in working time is not accompanied by further work intensification.

POINT OF CONTROVERSY WORKING TIME REDUCTION WITH WAGE COMPENSATION IN THE INTEREST OF MAINTAINING GOOD HEALTH

It is obvious that in some occupations very few people manage to work until they reach retirement age. It was proposed in the Commission that a *working time reduction for particularly onerous occupations* should be introduced. In this regard, it is worth casting a glance towards Sweden. A pilot project in Gothenburg recently attracted a good deal of media attention in connection with working time reductions. At the Svartedalens retirement home, nurses and other care staff worked only six hours a day for two years on full pay. It was hoped that the additional labour costs would be offset by an improvement in employees' job and life satisfaction, better quality of work, improvements in health, reduced number of sick days and productivity gains. The initial results of the evaluation certainly seem to confirm these hopes. Thus, among other things, sickness levels fell and employees reported an improvement in work-life balance.

Other similar projects in Gothenburg show that a model of this kind makes it easier for employers to attract and retain good staff (Toyota plant) and that productivity can increase. At the Sahlgrenska teaching hospital, the number of operations carried has risen while at the same time waiting times have fallen.

The pilot project at the Svartedalens retirement home is controversial among the Swedish trade unions because they were not involved in its design and no collective bargaining agreement was concluded that would have made the experiment permanent. The Commission is open-minded about comparable models provided the trade unions are involved.