

## Recording of daily working time: an obligation confirmed by the CJEU

**In a judgement issued on 14 May 2019, the Court of Justice of the European Union (CJEU) stated all companies operating in EU Member States must set up a system to record the working time of their employees.**

This judgement was handed down in a dispute in Spain between a trade union and a bank. The trade union had gone to court to force the defendant to introduce a system to record the daily working time. For the trade union, this would make it possible to verify compliance with the work schedules and to apply, as required by national legislation, the obligation of providing trade union representatives with information about overtime put in monthly.

The CJEU upheld that such a system was necessary to ensure compliance with the maximum working time per week as well as minimum periods of daily and weekly rest, as provided by Directive 2003/88/EC on working time of 4 November 2003.

*According to the CJEU “a system enabling the time worked by workers each day to be measured offers those workers a particularly effective means of easily accessing objective and reliable data as regards the duration of time actually worked, which facilitates both the proof by those workers of a breach of their rights and also the verification by the competent authorities and national courts of the actual observance of those rights.”*

The Court consequently considers that the Member States have to require employers to introduce an objective, reliable and accessible system for recording the daily working time of each worker. Nevertheless, *“it is for the Member States to define the specific arrangements for implementing such a system, in particular the form that it must take, having regard, as necessary, to the particular characteristics of each sector of activity concerned, or the specific characteristics of certain undertakings concerning, inter alia, their size.”*

### What about Luxembourg?

The **Act of 14 March 2017** amended Article L. 211-29 of the Labour Code by requiring employers to enter **the start, end and duration of daily work of each worker** in a “special register” or in a “file.” This obligation applies to all companies, irrespective of how the working time is organized (fixed schedule, work organization plan or flexible schedule).



Whereas this legal obligation entails considerably more red tape for employers, it nonetheless enables Luxembourg to be compliant with the decision of the CJEU.

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