

**APPLICATION OF THE CHARTER OF FUNDAMENTAL RIGHTS  
OF THE EUROPEAN UNION IN DOMESTIC LEGAL PRACTICE,  
WITH PARTICULAR REGARD TO EMPLOYEES FOR HEALTHY AND  
SAFE WORKING CONDITIONS**

**AZ EURÓPAI UNIÓ ALAPJOGI CHARTÁJÁNAK ALKALMAZÁSA  
A HAZAI JOGGYAKORLATBAN KÜLÖNÖS TEKINTETTEL  
A MUNKAVÁLLALÓK EGÉSZSÉGES ÉS BIZTONSÁGOS  
MUNKAKÖRÜLMÉNYEIRE**

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The Charter of Fundamental Rights of the European Union plays a decisive role in Hungarian labor law and labor protection, guaranteeing healthy and safe working conditions for employees. The protection of workers' rights and the fact that the health and well-being of workers in the workplace are a priority are of paramount importance. Such conditions not only increase employee satisfaction and productivity, but also have a positive effect on employers and the economy. The establishment and maintenance of a healthy and safe working environment is in the common interest of employers and employees, which is of fundamental importance for ensuring long-term well-being at work.

**Keywords:** *Charter of Fundamental Rights of the European Union, labor protection, workplace safety, working environment*

Az Európai Unió Alapjogi Chartája meghatározó szerepet tölt be a magyar munkajogban és munkavédelemben, garantálva a munkavállalók számára az egészséges és biztonságos munkavégzési feltételeket. Kiemelt fontossággal bír a munkavállalói jogok védelme, valamint az, hogy a munkahelyeken a dolgozók egészsége és jóléte elsőbbséget élvezzen. Az ilyen körülmények nemcsak a munkavállalók elégedettségét és produktivitását növelik, hanem a munkaadók és a gazdaság szempontjából is kedvező hatással bírnak. Az egészséges és biztonságos munkakörnyezet kialakítása és fenntartása a munkáltatók és munkavállalók közös érdeke, ami alapvető fontosságú a munkahelyi jólét hosszú távú biztosításához.

**Kulcsszavak:** *Európai Unió Alapjogi Charta, munkavédelem, munkahelyi biztonság, munkakörnyezet*

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## Introduction

The world of work is extremely diverse and constantly evolving. Technological innovations, economic changes and societal expectations all affect how we work and what job opportunities are available. The European Union strives to raise living standards, improve working conditions and provide EU citizens with adequate social protection. In this context, the Charter of Fundamental Rights generally stipulates the right of employees to fair and just working conditions, and this right should be regarded as a fundamental employee right. The Charter of Fundamental Rights of the European Union has a significant impact on Hungarian legal practice, especially in the field of labor protection. Hungarian legislation and court practice are closely intertwined with EU law, ensuring that the highest level of protection is in place in the field of labor protection. Through several European Union directives, it can be established that the legislation of the European Union has a broad focus on the protection of employee rights. In my study, the domestic occupational health and safety regulation is also described, which follows the European Union line through successful legal harmonization.

### 1. Charter of Fundamental Rights of the European Union

The Charter of Fundamental Rights of the European Union is a founding document of the European Union (EU), which enshrines the fundamental rights and freedoms of citizens. The Charter of Fundamental Rights of the European Union (hereinafter: the Charter) became the primary source of law of the European Union on 1 December 2009, with the entry into force of the Treaty of Lisbon. This means that it has binding legal force, in the same way as the founding treaties of the EU (such as the Treaty on European Union and the Treaty on the Functioning of the European Union). It is binding on the EU institutions (e. g. the European Parliament, the European Commission) and on the Member State authorities implementing EU law. It is directly applicable in certain cases, allowing individuals and legal entities to rely directly on it before the courts. The Charter of Fundamental Rights consists of a preamble and 54 articles in seven chapters, listing 50 fundamental rights. According to the preamble, “The peoples of Europe, in the process of creating an ever closer unity among themselves, have decided to share a peaceful future based on common values. Conscious of its spiritual and moral heritage, the Union is founded on the indivisible and universal values of human dignity, freedom, equality and solidarity, and is based on the principles of democracy and the rule of law. It places the individual at the centre of its activities, establishing the institution of Union citizenship and creating an area of freedom, security and justice.”<sup>1</sup> The Charter is not binding on Member States in all cases, except when they are implementing EU law. It cannot be extended exclusively to national legal issues that are not related to EU law. Given the impact of the Charter on law-making and legal interpretation, EU

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<sup>1</sup> *Alapjogi Charta hatékony alkalmazása a 2021–2027 közötti programozási időszakban.*  
<https://archiv.palyazat.gov.hu/download.php?objectId=1097467> , 2 June 2024.

legislators must take the provisions of the Charter into account when adopting new legislation. The Court of Justice of the European Union (CJEU) interprets EU law on the basis of the Charter and ensures that it is in line with fundamental rights. National courts must also apply the Charter when deciding on EU law. The EU Charter of Fundamental Rights is not an independent, autonomous legislative act, but forms an integral part of the EU legal order and applies within the scope of the EU's legislation and institutions. The Charter's legal effects cover the following three main areas: binding force; under the Treaty of Lisbon, the Charter is binding on all EU institutions and on the EU Member States. The Charter of Fundamental Rights has legal consequences when EU institutions or Member States decide to legislate and apply law. It thus ensures the protection of fundamental rights, as they are given a prominent role in the EU legal order. Impact on national legal systems Although the Charter is binding only on EU institutions, Member States must also take the Charter of Fundamental Rights into account when acting in matters falling within the scope of EU law. Member States must therefore not only comply with EU law, but also ensure that it is in line with the Charter of Fundamental Rights. Due to the primacy of EU law, if a Member State fails to respect the provisions of the Charter, it may be brought before the European Court of Justice. It is worth adding that fundamental rights are not delegating but rather restrictive in nature, i.e. in terms of content, they appear as limitations on the exercise of powers delegated to the institutions, due to the power-limiting function of fundamental rights. This can also be expressed as follows: if fundamental rights norms exclude public intervention in relation to certain individual rights and freedoms, they appear as negative competences for the institutions concerned in relation to the EU. However, the question remains whether full fundamental rights protection can be achieved in a Union with limited powers.<sup>2</sup> From the period before the Charter, the Wachauf judgment is crucial in the relationship between the protection of EU fundamental rights and the measures of the Member States, which revealed that the protection of Community fundamental rights controls not only the acts of the Community institutions, but also the measures of the Member States, insofar as they implement Community legislation or measures (5/88; EU:C:1989:321). In essence, this proposition is repeated in the Charter.<sup>3</sup> Regarding the limits of the Charter's application, the Charter's legal effect is not always comprehensive. In particular, the EU institutions and the Member States are obliged to apply it in areas regulated by EU law. In matters that fall exclusively within national competence, the Charter may have limited application. In addition, the European Court of Justice often decides, depending on the details of each case, whether the provisions of the Charter are applicable, taking into account the level of protection of fundamental rights. The assessment of the Charter's legal effects from the perspective of the European Union

<sup>2</sup> CHRONOWSKI Nóra: Az Európai Unió Alapjogi Chartájának első évtizede a primer jog részeként (1). *KJSZ* 2019/4., 74–78.

<sup>3</sup> BLUTMAN László: Az Alapjogi Charta és az uniós jog határai. *Acta Universitatis Szegediensis, Acta Juridica Et Politica* 79, 103–109.

legal order and the protection of human rights can lead to different positions. A positive position is that the Charter of Fundamental Rights strengthens the fundamental principles of the EU legal order based on the rule of law and provides clear legal protection for the fundamental rights of EU citizens. The Charter provides a kind of guarantee that EU legislation and the legal systems of the Member States operate in a manner that respects fundamental rights, which is particularly important from the perspective of the protection of human rights. Critical position Some legal opinions and political analysts complain that the application of the Charter is not clear in certain cases and that Member States often try to evade their obligations. In cases before the courts, difficulties may also arise in resolving the tension between Member States' practice and the principles of the Charter. Furthermore, the application of the principles of the Charter is not always uniform and differences between Member States with different legal traditions may also influence interpretation. Another aspect of the enforcement of fundamental rights is that the practical enforcement of the Charter allows citizens to seek protection directly if they perceive a violation of their rights. The possibility of turning to the EU institutions and the European Court of Justice helps to ensure legal remedies, but this requires serious efforts from both legal professionals and citizens. The European Court of Justice has progressed in small steps, decision by decision, crystallising the system of protection of fundamental rights. The first attempt by the European Court of Justice to recognise fundamental human rights was made in the *Stauder* case. In this judgment, the Court ruled that fundamental human rights are included in the general principles of Community law and are therefore subject to the protection of the Court, so that there is no possibility of an interpretation that contradicts these principles.<sup>4</sup> The legal effects of the Charter of Fundamental Rights of the European Union raise complex issues for the EU legal order and the protection of human rights. The Charter has represented a major step forward in the protection of fundamental rights, but it has also posed a number of challenges for Member States and EU institutions in terms of its practical application. The binding nature of the Charter and the guarantee of fundamental rights have made the EU legal order more clearly and closely linked to the protection of human rights, while the problems arising in its interpretation and application also raise important questions. The Charter of Fundamental Rights also lays down the prohibition of discrimination on grounds of nationality, and mentions the right to freely seek employment, take up employment, establish oneself and provide services, the right to vote and stand as a candidate in elections to the European Parliament and local elections, the right of access to documents of the institutions, bodies, offices and agencies of the Union, the right to contact the European Ombudsman, the right to petition the European Parliament, the right to move and reside freely within the territory of the Union, and the right to diplomatic and consular protection in the territory of any Member State.<sup>5</sup> The Charter

<sup>4</sup> GOMBOS Katalin: *A jog érvényesülésének térsége az Európai Unióban*. Budapest, Wolters Kluwer Kft, 2016. <https://doi.org/10.55413/9789632956091>, 6 June 2024.

<sup>5</sup> Charter of Fundamental Rights Articles 21(2), 15(2), 39–40, 42–46.

of Fundamental Rights of the European Union plays an important role in the legal practice of EU member states, including Hungary. For the first time in the history of the Union, the Charter of Fundamental Rights fully encompasses all civil, political, economic and social rights.<sup>6</sup> The question of the function of the Charter and its real legal force in the legal protection of workers at EU level is not new, as the answer to the question of whether in se the reference to the fundamental rights enshrined in the Charter can provide effective and efficient legal protection for workers before national courts or the Court of Justice is essentially negative. It is important to note that a negative answer does not, on the one hand, render the employment rights enshrined in Chapter IV of the Charter worthless, and on the other hand, does not exclude the possibility that the Court's changing case law may result in new directions in legal interpretation.<sup>7</sup> The fundamental rights enshrined in the Charter – that is, the rights recognised in the Charter of Fundamental Rights of the European Union – can provide effective and efficient legal protection for workers, but their effectiveness depends on several factors, in particular on the type of infringement in the case and whether the Charter is applicable in the given situation. By their nature, the provisions of the Charter define rights (freedoms) and fundamental principles. The former are entitlements whose enforcement follows directly from the rules of the Charter and do not require a separate measure of EU law to ensure their enforcement. Fundamental principles, on the other hand, can be enforced through EU legislative and implementing acts or through Member State legal acts in the implementation of EU law.<sup>8</sup> The Charter of Fundamental Rights is applicable only if the matter in question falls within the scope of EU law. This means that the Charter cannot be used directly in purely national legal relations, unless the matter is linked to EU law (e.g. in connection with the implementation of an EU directive).

The high-level regulation of EU fundamental rights has provided a new means of asserting interests and has given rise to an increasing number of cases where the applicability of the Charter was at least questionable, because it was not possible to know whether the contested Member State measure fell within the scope of EU law or not.<sup>9</sup> Workers can rely on the Charter before national courts if the dispute in question concerns the implementation of EU law. The implementation of EU law also involves the involvement of other EU rules in addition to the Charter. Thus, ultimately, it is up to the EU legislator to ensure that the rights enshrined in the Charter are implemented in the Member States, as it is he who “activates” these

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<sup>6</sup> TÓTH Júlia: *Az Európai Unió jogrendszere*, 77. [https://epa.oszk.hu/02700/02750/00012/pdf/EPA02750\\_tudasmenedzsment\\_2005\\_02\\_069-080.pdf](https://epa.oszk.hu/02700/02750/00012/pdf/EPA02750_tudasmenedzsment_2005_02_069-080.pdf), 5 June 2024.

<sup>7</sup> ZACCARIA Márton Leó: Pillanatkép a munkavállalói jogokról az Európai Unió jogában. *Stagnálás, változás vagy fejlődés? Iustum, Aequum, Salutare* XV, 2019, 1, 89–109.

<sup>8</sup> FRIEDERY Réka – HORVÁTHY Balázs: *Európai Unió Alapjogi Chartája*. 2018, 11. [https://real.mtak.hu/85737/1/Friedery\\_Horvathy%20EU%20Alapjogi%20Charta.pdf](https://real.mtak.hu/85737/1/Friedery_Horvathy%20EU%20Alapjogi%20Charta.pdf), 6 June 2024.

<sup>9</sup> BLUTMAN, László: *Az Alapjogi Charta és az uniós jog határai*. *Acta Universitatis Szegediensis, Acta Juridica Et Politica* 79, 103–109.

fundamental rights in secondary legislation.<sup>10</sup> National courts must take the Charter into account and, where appropriate, may refer a case to the Court of Justice of the European Union (CJEU). Some provisions of the Charter have direct effect, in particular if they are sufficiently precise and unambiguous and do not require further implementing measures. The prohibition of discrimination (Article 21) and the right to fair and just working conditions (Article 31) are provisions that individual workers may, where appropriate, rely on before national courts. As regards workers' rights, the Charter of Fundamental Rights contains several key provisions aimed at protecting and promoting workers' rights in the EU. The Charter of Fundamental Rights recognises fundamental rights and freedoms universally, but certain rights linked to specific status are reserved for certain categories of persons (children, the elderly, people with disabilities) and a separate chapter deals with rights specifically granted to EU citizens. It discusses protected rights in the following legal groups: dignity, freedoms, equality, solidarity, citizens' rights, and justice.<sup>11</sup> A healthy and safe working environment<sup>12</sup> (Article 31) The EU Charter of Fundamental Rights recognises the right to a safe and healthy working environment and requires the provision of decent working conditions. The Charter of Fundamental Rights therefore provides a strong legal framework for the protection of workers' rights in the EU. However, in practice, its application depends in some cases on the national legal systems of the Member States, as the application of the Charter of Fundamental Rights is only binding when Member States implement EU law or when cases are brought before the EU institutions. The Charter of Fundamental Rights is based on the fundamental values of the European Union and aims to ensure the protection of fundamental rights and freedoms in the Union. The Charter aims to guarantee and protect the fundamental rights to which EU citizens are entitled, which include protection at work.

## **2. The role of the Charter of Fundamental Rights of the European Union in relation to domestic occupational safety and health regulations**

Article XVII (3) of the Fundamental Law states that every employee has the right to working conditions that respect their health, safety and dignity. After all, ensuring adequate working conditions for employees is essential in order to ensure that they are able to perform their duties to the fullest extent possible while preserving their health, thereby contributing to maintaining the economic competitiveness and productivity of the employer organization.<sup>13</sup> After all, ensuring appropriate working conditions for employees is essential in order to ensure that they are able to perform their duties to the fullest extent possible while preserving their health, thereby

<sup>10</sup> BAKÓ Beáta: Uniós alapjogok a tagállamokban, Az Alapjogi Charta alkalmazási és értelmezési problémái. *Iustum, Aequum, Salutare* XI, 2015, 1, 179–218.

<sup>11</sup> GOMBOS Katalin: *A jog érvényesülésének térsége az Európai Unióban*. Budapest, Wolters Kluwer Kft, 2016. <https://doi.org/10.55413/9789632956091>, 6 June 2024.

<sup>12</sup> Article 31 of the Charter of Fundamental Rights.

<sup>13</sup> Article XVII (4) of the Fundamental Law of Hungary.

contributing to maintaining the economic competitiveness and productivity of the employer organization.<sup>14</sup> When comparing the Charter of Fundamental Rights of the European Union (Charter) and national OSH legislation, several important aspects need to be taken into account, as both systems aim to protect workers' rights and safety, but operate within different legal frameworks and mechanisms. The Charter guarantees, among other things, fundamental rights of workers, such as fair and just working conditions, health and safety at work, social security and social assistance. Some provisions of the Charter of Fundamental Rights are directly applicable before national courts. This means that when an EU law needs to be interpreted, national courts are obliged to take into account the rights and principles enshrined in the Charter. According to the preliminary ruling procedure, if national courts are uncertain about the interpretation or application of EU law, they can ask the Court of Justice of the European Union (CJEU) to give a preliminary ruling. In such cases, the relevant provisions of the Charter serve as guidance. Several articles of the Charter concern workers' rights, such as just and equitable working conditions, and every worker has the right to safe and healthy working conditions.<sup>15</sup> The right of employees to information and consultation, employers must ensure that employees receive adequate information and a say in workplace decisions.<sup>16</sup>

Legal protection in the event of unjustified dismissal, protection against unlawful dismissal, which may also affect abuses related to occupational safety.<sup>17</sup> Regarding the relationship between the Charter and the EU occupational safety and health directives, the EU has adopted a number of occupational safety and health directives to ensure the protection of workers' health and safety. These directives are in line with the Charter and Member States are required to transpose them into national law. These include the Framework Directive 89/391/EEC: general principles for the protection of the health and safety of workers. Directive 2003/88/EC: the regulation of working time, including rest periods and maximum working hours. The Hungarian Occupational Safety and Health Act<sup>18</sup> and its regulations are in line with EU law. The Charter ensures that Hungarian occupational safety and health legislation cannot restrict the fundamental rights of workers. Should a domestic law or court decision be contrary to EU law or the Charter, the enforcement mechanisms of the European Court of Justice ensure that the infringement is redressed. The Charter of Fundamental Rights of the European Union plays a key role in shaping occupational safety and health legislation, as it guarantees fair working conditions, safe working conditions and the legal protection of workers. Hungarian labour legislation must be in line with these EU principles, ensuring that workers are adequately protected

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<sup>14</sup> BERÉNYI Laura: Az egészséges munkakörnyezethez való jog, *Publicationes Universitatis Miskolcensis Sectio Juridica et Politica*, 2019, Tomus XXXVIII/1, 281–292.  
<https://doi.org/10.32978.sjp.2020.016>

<sup>15</sup> Article 31 of the Charter of Fundamental Rights.

<sup>16</sup> Article 27 of the Charter of Fundamental Rights.

<sup>17</sup> Article 30 of the Charter of Fundamental Rights.

<sup>18</sup> Act XCIII of 1993 on Occupational Safety and Health.

against risks at work. The provision of the Occupational Safety and Health Act, in force since 1 January 2008, requires that the presence of workplace stress and its causes must be examined when assessing risks. The risk assessment must be reviewed at least annually and, if necessary, supplemented.<sup>19</sup> It includes the right to a healthy and safe working environment (Article 31), which states that every worker has the right to healthy, safe and just working conditions. In the field of occupational safety and health, the Charter sets out fundamental principles that Member States must take into account in their national legislation and practice.

The right to just and just working conditions is one of the most important rights for workers, in particular because of the regulation of working time and rest periods, which often gives rise to legal disputes. In the field of occupational safety and health, the Charter contains a number of fundamental rights and principles that Member States must incorporate into their national legislation. Health and safety at work, the EU pays particular attention to health and safety at work, and this is reinforced by the rights enshrined in the Charter. As regards working time and rest periods, the principles laid down in the Charter ensure that workers have adequate working time, rest periods and leave. Special protection for young people and people with disabilities, the provisions of the Charter guarantee that young people and people with disabilities enjoy special protection at work.

There is broad agreement among leading global and regional organizations, including the WHO, the International Labour Organization (ILO) and the European Union (EU), that the health, safety and well-being of workers is a matter of fundamental importance.<sup>20</sup> Directive 89/391/EEC, which constitutes the European Union's occupational safety law, and the Hungarian Occupational Safety Act (Act XCIII of 1993) in line with it, draw attention to the importance of workplace risk assessment to be carried out by employers and to the fact that during the risk assessment, solutions to eliminate risks or eliminate risk factors, or possibly to apply occupational safety equipment, should be determined. The proportion of risk elements in a given work is greatly influenced by the industry in which it is carried out, the materials used and the technical solutions used. The spectrum of risk factors is wide, from protection against falls to chemical and other types of exposure. Numerous laws and other profession-specific rules deal with risk factors and their prevention, and in itself this means an overview and systematization of a significant amount of regulatory material when examining a given area.<sup>21</sup>

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<sup>19</sup> MÁDI Sarolta: A kockázateértékelés és kockázatbecslés jelentősége a munkabiztonság területén. *Miskolci Jogi Szemle* 2010/1., 77–88.

<sup>20</sup> KUN Attila: A munkahelyi egészségkárosodások megtérítése a magyar munkajogban – felelősségi szabályok és kompenzáció. *Magyar Munkajog E-Folyóirat* 2014/1., 91.

<sup>21</sup> MÉLYPATAKI Gábor: A veszélyes anyagokkal foglalkozó üzemek létesítésével és működtetésével összefüggő munkajogi és társadalombiztosítási felelősségi kérdések. *Publicationes Universitatis Miskolcensis Sectio Juridica et Politica* 2017, Tomus XXXV, 366–380.



According to Section 87(1) of the Employment Act: The totality of the effects (conflicts, work organization, work schedule, uncertainty of employment relationship, etc.) affecting the employee at work, which influence his/her responses to these effects, and in connection with this, stress, work accidents, and organic (psychosomatic) diseases of psychological origin occur.<sup>22</sup> I consider it important to note the role of occupational health, which is a health service that currently covers millions of workers in organised employment. Its financing became the responsibility of employers in the early 1990s. It does not provide curative care, its activities are primarily aimed at developing work that does not endanger health, prevention and health preservation. The specific hazards of the occupation itself have a wide variety of origins, which cause diseases. There is no prescribed form for the documentation of the risk assessment. EU Member States determine the specific employer obligations they consider important within their own competence.

According to the WHO, risks inherent in working conditions cause more than a third of back pain, 16% of hearing impairment, almost 10% of lung cancer cases, or around 8% of depressive illnesses. Every three and a half minutes, someone in the European Union dies as a result of work-related risks.<sup>23</sup> The Charter and the EU legal framework have had a significant impact on the development of Hungarian OSH legislation. The EU harmonisation of OSH legislation has contributed to improving working conditions, increasing employer responsibility and protecting workers' rights. In the future, continuous legislative developments and strengthening practical implementation will be key to maintaining effective OSH.

### **3. The role of the European Agency for Safety and Health at Work (EU-OSHA)**

A key element of OSH is the legal framework governing safety at work. Various international organisations, such as the World Health Organisation (WHO) and the International Labour Organisation (ILO), provide guidelines and recommendations on safety at work. At national level, governments usually enact laws that oblige employers to provide a safe working environment and protect workers from workplace hazards. A particularly important area is the regulation of working time and rest periods. The main EU framework for the regulation of working time is Directive 2003/88/EC (Working Time Directive), which sets out minimum requirements for working time, rest periods and annual leave. Occupational safety and health (OSH) refers to the discipline and practice of ensuring that workplaces are safe and healthy for workers. This involves identifying, assessing and controlling risks and hazards that can negatively impact the physical, mental and emotional well-being of workers. The importance of occupational safety and health cannot be overemphasized as it not only protects workers but also benefits businesses by promoting productivity, reducing healthcare costs and promoting a positive work

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<sup>22</sup> XCIII Act XCIII of 1993 on Occupational Safety and Health Paragraph 87 (1/H.).

<sup>23</sup> KUN Attila: A munkahelyi egészségkárosodások megtérítése a magyar munkajogban – felelősségi szabályok és kompenzáció. *Magyar Munkajog E-Folyóirat* 2014/1., 91.

environment. The primary goal of OSH is to prevent workplace injuries, illnesses and deaths. Regardless of the industry, every workplace carries inherent risks such as exposure to toxic chemicals, physical hazards such as machinery, ergonomic challenges or psychological stressors. By implementing appropriate safety measures, employers reduce the likelihood of accidents leading to personal injury or even death. In addition, occupational safety practices help reduce the financial burden associated with workplace accidents, such as compensation claims, insurance costs and legal fees. In addition, a focus on occupational health and safety improves employee morale. When workers feel safe and valued, they are more likely to be productive and engaged. Workplace safety can also improve employee retention, as employees are more likely to stay with employers who prioritize their well-being. Hazard identification and risk assessment are important key elements of OSH, identifying potential hazards is the first step in creating a safe work environment. This includes physical hazards (e. g. machinery, electrical systems), chemical hazards (e. g. exposure to toxic substances), ergonomic hazards (e. g. repetitive strain injuries), and psychosocial risks (e. g. stress, bullying). Risk assessments are conducted to understand the likelihood and severity of potential hazards.

Workplace safety policies and procedures, a strong occupational health and safety program includes comprehensive safety policies, training programs, and emergency procedures. Policies provide clear guidelines for workers to follow to reduce the risk of injury, while training programs teach employees how to recognize hazards, use protective equipment, and act in the event of an emergency. OSH practices also include regular health checks of workers, especially in industries where workers may be exposed to harmful substances or the environment. Health surveillance ensures that early signs of illness or injury are identified and treated before they become serious problems. Every workplace should have a clear emergency plan for dealing with accidents, natural disasters or other unforeseen events. Emergency preparedness includes training employees in first aid, evacuation procedures and the use of emergency equipment. This is vital to ensuring a quick and organized response when a crisis arises. Despite the benefits of occupational safety and health, implementing effective safety measures can be challenging. Some employers may view OSH programs as an additional financial burden, especially for small and medium-sized businesses. Others may not realize the long-term benefits of investing in workplace safety. In addition, the rapidly changing nature of industries, such as the rise of teleworking and the increasing use of technology, pose new challenges to safety compliance. Cultural attitudes to safety at work can also be an obstacle. In some regions or industries, there may be a lack of awareness or resistance to adopting safety measures, especially when workers or employers prioritise productivity over safety. EU-OSHA conducts research, develops guidelines and recommendations and organises various campaigns to improve workplace safety. The agency monitors new workplace risks, such as the effects of new technologies, and ensures that European legislation is in line with the latest scientific knowledge. EU-OSHA plays an important role in promoting a culture of safety and health in Europe and runs various programmes to improve workplace safety and prevent accidents at work. One of the

key aspects of EU labour law in Occupational Safety and Health (OSH) is the regulation of working time and rest periods, which is enshrined in the EU Working Time Directive (2003/88/EC). This legislation sets out a number of mandatory minimum rules on the organisation of working time, which have been further clarified by the case law of the European Court of Justice (ECJ).

The Simap case<sup>24</sup> a landmark ruling by the Court of Justice of the European Union (CJEU) on the interpretation of working time and on-call duty for healthcare workers. The Spanish medical union Simap (Sindicato de Médicos de Asistencia Pública) brought an action because the accounting for on-call duty of doctors working in the public healthcare system did not comply with the European Union rules on working time. The question was whether the entire period of on-call duty (when doctors are present at their workplace but are not continuously actively working) is considered working time or only the period when they are actually on call. The CJEU ruled that the active period of on-call duty performed by doctors is considered working time under Directive 1993/104/EC (the Working Time Directive). The essence of the decision is that if doctors have to be at their workplace during on-call duty, the entire period counts as working time, regardless of how much work they actually do; if doctors are on-call duty from home, only the time actually spent working counts as working time. The decision has set an important precedent for determining working time in the healthcare sector and other areas of work where on-call duty is used. This ruling has contributed to more precise regulation of working hours for healthcare workers and to preventing excessive workloads.

The Jaeger case<sup>25</sup> The Jaeger case was a landmark EU working time law decision delivered by the European Court of Justice (ECJ) in 2003. The case focused on the recognition of on-call duty as working time for healthcare professionals, in particular doctors. Jaeger was a doctor working in a German hospital whose work schedule included so-called “on-call duty” (Bereitschaftsdienst). During this period, he had to be at his workplace so that he could immediately start working if necessary, but he could also spend part of the duty resting. Under German law, on-call duty was only considered to be part of working time. However, Jaeger contested this and argued that the entire on-call time should be treated as working time under the 1993 Working Time Directive (93/104/EC). The ECJ ruled that the entire period of on-call duty was considered to be working time, even if the doctor was allowed to rest during certain periods. This is because the Working Time Directive sets out three conditions for working time: the worker must be present at the workplace, be available to the employer and be available to work. Since these conditions are met during on-call duty, the entire period is considered working time. The aim of the Directive is to protect the health and safety of workers, and employers cannot apply a system that only partially considers on-call time as working time. Consequences of the decision The ruling had an impact on the employment law of the Member States, particularly

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<sup>24</sup> C-303/98, 2000, Sindicato de Médicos de Asistencia Pública (Simap) v Conselleria de Sanidad y Consumo de la Generalidad Valenciana.

<sup>25</sup> C-151/02. sz. ügy Landeshauptstadt Kiel Kontra Norbert Jaeger.

in the healthcare sector. Several countries were forced to amend their legislation to recognise the entire period of on-call duty as working time. The case set an important precedent for other professions where on-call duty is used.

The Court of Justice of the European Union delivered its judgment on 9 November 2017<sup>26</sup> *Maio Marques da Rosa*. The central issue in the case was how to interpret the weekly rest period granted to workers under Article 5 of Directive 2003/88/EC. The Court held that, under the directive, a worker must be granted an uninterrupted rest period of at least 24 hours per week, to which a daily rest period must be added. The judgment stated that this weekly rest period may be taken at any time within a seven-day period and that EU law does not require it to be taken at the latest on the day following six consecutive working days. This means that employers are free to arrange the weekly rest period flexibly, as long as it is provided for each seven-day period.

It can be seen that these judgments make it clear that the aim of EU law on working time and rest periods is to protect the health and safety of workers and to maintain a fair balance between work and private life. It is important to mention that the ILO (International Labour Organization) took a decisive step in the field of occupational safety and health (OSH) in 2022. The 110th International Labour Conference (ILC) decided to officially include occupational safety and health among the ILO's core labour principles and rights. This is of historic significance, as OSH has since been included in the same category as: freedom of association and the right to collective bargaining, the prohibition of forced labour, the abolition of child labour, and the prohibition of discrimination in employment. This change also means that ILO member states, regardless of whether they have ratified the related conventions, are obliged to promote and implement the core standards on occupational safety and health. The following conventions were given a particularly prominent role in the decision: C155 – Occupational Safety and Health Convention (1981), C187 – Occupational Safety and Health Promotion Convention (2006).

This step has a significant impact on the global labor market, as it strengthens workers' rights and increases employers' responsibility to ensure a safe working environment.

Over the past hundred years, the ILO has helped to achieve safe and healthy working conditions in its member states with numerous conventions and related recommendations.

Despite this, according to recent ILO estimates, two million women and men die each year as a result of workplace accidents and work-related diseases.<sup>27</sup>

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<sup>26</sup> C-306/16. sz. ügy *António Fernando Maio Marques da Rosa kontra Varzim Sol – Turismo, Jogo e Animação, SA*.

<sup>27</sup> MÁDI Sarolta Mária: A munkavédelem nemzeti politikája hazánkban. *Miskolci Jogi Szemle A Miskolci Egyetem Állam- és Jogtudományi Karának Folyóirata* 2022/2., 1. különszám, 265–271. <https://doi.org/10.32980/MJSz.2022.2.2016>

#### **4. The Charter of Fundamental Rights of the European Union and the legal practice of domestic occupational safety and health**

The Charter of Fundamental Rights of the European Union has a significant impact on Hungarian occupational safety and health judgments, as the fundamental rights contained therein must be respected by all Member States, including Hungary. Judgments rendered in accordance with the fundamental rights of the Charter of Fundamental Rights ensure that workers' rights are protected and employers comply with the relevant labour rules.

In Hungary, the provisions of the Charter of Fundamental Rights on occupational safety and health are integrated into domestic legal practice as follows. National legislation and the Charter of Fundamental Rights The Charter of Fundamental Rights has a direct impact on national legislation, which must be in line with EU legislation and directives. Domestic legislation in the field of occupational safety and health must be designed and applied in such a way that it complies with the rights and standards set out in the Charter of Fundamental Rights. As regards judicial practice, Hungarian courts must take the Charter of Fundamental Rights into account in their case-law. If employees' occupational safety and health rights are violated, courts can issue judgments based on the Charter of Fundamental Rights. The Court of Justice of the European Union (CJEU) delivered its judgment on 6 November 2018<sup>28</sup> In the Max Planck case.

The central issue in the case was whether an employee could lose his right to paid annual leave not taken and the corresponding allowance in lieu if he did not submit a request for leave before the employment relationship ended. The CJEU held that, under Article 31(2) of the Charter of Fundamental Rights of the European Union and Article 7 of Directive 2003/88/EC, an employee cannot automatically lose his right to paid annual leave that he has acquired simply because he did not request it within the relevant period. The employer must actively inform the employee of the possibility of taking the leave and ensure that he actually does so. If this is not done, the employee remains entitled to an allowance in lieu of the untaken leave when the employment relationship ends. The judgment underlines the responsibility of employers to proactively ensure that employees have the possibility of taking paid annual leave and to inform them accordingly. This case set a significant precedent in the field of labor law in the European Union. In judgment C-426/11<sup>29</sup> is a major EU employment law case concerning the protection of workers' rights in the event of a transfer of undertakings. The case concerned Mark Alemo-Herron and 23 colleagues working in the leisure services department of Lewisham Council. Their employment contracts provided for them to receive pay increases in accordance with the National Joint Council for Local Government Services (NJC) collective agreements. In 2002, their work was transferred to CCL Ltd and then to Parkwood Leisure Ltd in 2004.

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<sup>28</sup> C-684/16. sz. ügy Max-Planck-Gesellschaft zur Förderung der Wissenschaften e.V. és Tetsuji Shimizu.

<sup>29</sup> C-426/11. sz. ügy Alemo-Herron és társai kontra Parkwood Leisure Ltd.

While Parkwood initially applied the pay increases, from 2004 it refused to implement the pay increases negotiated by the NJC between 2004 and 2007, on the grounds that it had not been involved in those negotiations. The workers claimed that, under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), the pay increases under the collective agreement were binding on the new employer. The Labour Court dismissed the workers' claim, citing the European Court of Justice's Werhof ruling that collective agreements concluded after the transfer were not binding on the new employer. The Labour Court of Appeal overturned the first-instance decision, pointing out that UK law afforded workers more extensive protection than the EU minimum requirements. The Court of Appeal held that TUPE did not provide greater rights than the EU Directive and that the new employer was not obliged to comply with the collective agreements concluded after the transfer. The Supreme Court made a reference to the European Court of Justice for a preliminary ruling, asking for an interpretation of the Directive. Decision of the European Court of Justice: On 18 July 2013, the European Court of Justice ruled that the new employer was not obliged to comply with the terms of collective agreements concluded after the transfer if it had not participated in their negotiation. The Court stressed that such an obligation would infringe the employer's freedom of establishment and freedom of contract, which are protected by Article 16 of the Charter of Fundamental Rights of the European Union. This judgment is a landmark in the field of employment law, as it clarifies the extent to which the new employer is obliged to respect previous collective agreements in the event of a transfer of an undertaking. According to the judgment, the new employer is not obliged to accept the terms of collective agreements concluded after the transfer if it did not participate in their negotiation, thereby protecting the employer's freedom of establishment and freedom of contract. The *Porras Guisado* case<sup>30</sup> was brought before the Court of Justice of the European Union (CJEU) and was ruled on 22 February 2018. The case concerned whether a pregnant worker could be dismissed in the context of a collective redundancy and under what conditions such a dismissal could take place. Jessica Porras Guisado was an employee of the Spanish bank Bankia S.A. Due to economic difficulties, Bankia implemented a collective redundancy scheme in which Porras Guisado was also dismissed, despite the fact that she was pregnant. Porras Guisado challenged her dismissal before the Spanish courts, arguing that the dismissal of pregnant workers is prohibited. The case ultimately came before the CJEU in the form of a request for a preliminary ruling. The CJEU held that the dismissal of pregnant workers is, in principle, prohibited from the beginning of pregnancy until the end of maternity leave, unless the dismissal is in exceptional circumstances not linked to the individual worker. Collective redundancies may constitute such an exceptional case, provided that the dismissal is based on objective reasons and the worker concerned is duly informed of the reasons for the dismissal and of the objective selection criteria applied. The Court has held that the dismissal of pregnant workers is subject to stricter conditions and that their protection is in line

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<sup>30</sup> C-103/16. sz. *Porras Guisado*-ügy.

with Article 30 of the Charter. The protection of these rights plays an important role in the EU legal order and a number of EU cases have already addressed the application of fundamental rights at work.

### Summary

Overall, it can be said that the Charter of Fundamental Rights of the European Union plays a significant role in Hungarian labour law and occupational safety and health, ensuring that workers can perform their work in healthy and safe conditions. It is essential to protect workers' rights and to make the health and well-being of workers a primary consideration in the workplace. Healthy and safe working conditions contribute to the productivity, satisfaction and general well-being of workers, which ultimately benefits employers and the economy. In conclusion, the Charter of Fundamental Rights of the European Union has a significant impact on Hungarian legal practice, especially in the field of occupational safety and health. Article 31 of the Charter, which guarantees the right of workers to healthy and safe working conditions, is an important instrument in the protection of workers' rights. Hungarian legislation and case law are closely intertwined with EU law, ensuring that the highest level of protection in the field of occupational safety and health is in place. Courts must take into account the provisions of the Charter, in particular when applying or interpreting EU law. Judgments of the Court of Justice of the European Union (CJEU) also influence domestic legal practice, as the provisions of the Charter are given concrete form through CJEU judgments. In practice, occupational safety and health inspections are important, and occupational safety and health authorities regularly inspect workplaces to ensure healthy and safe working conditions. During inspections, the provisions of the Charter of Fundamental Rights are also taken into account. Workers can rely on the provisions of the Charter of Fundamental Rights in the event of a dispute, in particular if they feel that their working conditions do not meet the requirements. Creating and maintaining a healthy and safe working environment is in the common interest of both employers and workers and is crucial for long-term well-being at work. The working environment is the most dangerous human environment, with a risk of harm 1-3 orders of magnitude higher than in other environments.<sup>31</sup> One of the most important and challenging areas of EU policies is occupational safety and health.

Occupational safety is important and fundamental for everyone, so that the working conditions and working conditions are in a state that excludes the occurrence of dangerous and harmful factors for the individual.<sup>32</sup>

The EU faces a serious challenge in keeping up with the rapid pace of change in the workplace. It should be noted that with the mass adoption of technology, it is

<sup>31</sup> HUSTI István: *Műszaki és beruházási ismeretek*. Budapest, 2010, 135.

<sup>32</sup> BÓDI Marianna: *Az egészséges és biztonságos munkakörülmények biztosításának lehetőségei*. [https://www.nive.hu/Downloads/Szakkepzesi\\_dokumentumok/Bemeneti\\_kompetenciaci\\_meresi\\_ertekelesi\\_eszkozrendszerenek\\_kialakitasa/1\\_2326\\_007\\_101231.pdf](https://www.nive.hu/Downloads/Szakkepzesi_dokumentumok/Bemeneti_kompetenciaci_meresi_ertekelesi_eszkozrendszerenek_kialakitasa/1_2326_007_101231.pdf), 2 June 2024.

inevitable that standards, which are currently subject to payment, will evolve into free, mandatory legislation for the relationship between humans and machines. This could primarily concern occupational safety and health rules and rules on human-machine interaction.<sup>33</sup> The person performing the work is affected by environmental factors, the environmental effects exerted by the workplace environment, tools, the materials used, and machines: health damage caused by chemical effects, noise pollution, vibration pollution. Occupational diseases, work-related illnesses, and health damage can have consequences that can significantly affect the employee's quality of life in the future. This can lead to the employee changing jobs, workplaces, and sometimes changing occupations, or the employee may have a permanent or permanent impairment of their health, which may result in a decrease in their ability to work, which may necessitate the employee's disability pension or reduction in their salary. It is important to note that people are exposed to accidents, occupational diseases, and work-related health damage every minute in relation to their occupation. Occupational health and safety, the existence of working conditions, the working environment, risk assessment, and the use of personal protective equipment are of utmost importance, which excludes or minimizes the impact of dangerous and harmful factors in the work process and the working environment on the health of employees and is also part of occupational safety.

### Bibliography

- [1] BAKÓ Beáta: Uniós alapjogok a tagállamokban. Az Alapjogi Charta alkalmazási és értelmezési problémái. *Iustum, Aequum, Salutare* XI, 2015, 1. 179–218.
- [2] BERÉNYI Laura: Az egészséges munkakörnyezethez való jog. *Publicationes Universitatis Miskolcensis Sectio Juridica et Politica*, 2019, Tomus XXXVIII/1, 281–292. <https://doi.org/10.32978.sjp.2020.016>
- [3] BLUTMAN László: Az Alapjogi Charta és az uniós jog határai. *Acta Universitatis Szegediensis, Acta Juridica et Politica* 79, 103–109.
- [4] CHRONOWSKI Nóra: Az Európai Unió Alapjogi Chartájának első évtizede a primer jog részeként (1). *KJSZ*, 2019/4., 74–78. <https://doi.org/10.55413/9789632956091>, 6 June 2024.
- [5] GOMBOS Katalin: *A jog érvényesülésének térsége az Európai Unióban*. Budapest, Wolters Kluwer Kft., 2016. <https://doi.org/10.55413/9789632956091>, 6 June 2024
- [6] HUSTI István: *Műszaki és beruházási ismeretek*. Budapest, 2010, 135.

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<sup>33</sup> MÉLYPATAKI Gábor: *Az Ipar 4.0. és a jog kapcsolata – Problémafelvetések a foglalkoztatás és szociális biztonság témaköre kapcsán*. <https://ojs.elte.hu/jesz/article/view/5533/4479>, 29 June 2024.



- [7] KUN Attila: A munkahelyi egészségkárosodások megtérítése a magyar munkajogban – felelősségi szabályok és kompenzáció. *Magyar Munkajog E-Folyóirat* 2014/1., 91, 119.
- [8] MÁDI Sarolta Mária: A munkavédelem nemzeti politikája hazánkban. *Miskolci Jogi Szemle A Miskolci Egyetem Állam- és Jogtudományi Karának Folyóirata* 2022/2., 1. különszám, 265–271.  
<https://doi.org/10.32980/MJSz.2022.2.2016>
- [9] MÁDI Sarolta: A kockázatértékelés és kockázatbecslés jelentősége a munkabiztonság területén. *Miskolci Jogi Szemle* 2010/1., 77–88.
- [10] MÉLYPATAKI Gábor: A veszélyes anyagokkal foglalkozó üzemek létesítésével és működtetésével összefüggő munkajogi és társadalombiztosítási felelősségi kérdések. *Publicationes Universitatis Miskolcensis Sectio Juridica et Politica* 2017, XXXV. 366–380.
- [11] ZACCARIA Márton Leó: Pillanatkép a munkavállalói jogokról az Európai Unió jogában. Stagnálás, változás vagy fejlődés? *Iustum, Aequum, Salutare* XV, 2019, 1, 89–109.

### List of legislation

- [12] Charter of Fundamental Rights Articles 21(2), 15(2), 39–40, 42–46.
- [13] Article 31 of the Charter of Fundamental Rights.
- [14] Article XVII (4) of the Fundamental Law of Hungary.
- [15] Article 31 of the Charter of Fundamental Rights.
- [16] Article 27 of the Charter of Fundamental Rights.
- [17] Article 30 of the Charter of Fundamental Rights.
- [18] Act XCIII of 1993 on Occupational Safety and Health.
- [19] XCIII Act XCIII of 1993 on Occupational Safety and Health Paragraph 87 (1/H.).

### Legal cases

- [20] C-303/98, 2000, Sindicato de Médicos de Asistencia Pública (Simap) v Conselleria de Sanidad y Consumo de la Generalidad Valenciana.
- [21] C-151/02. sz. ügy Landeshauptstadt Kiel Kontra Norbert Jaeger.
- [22] C-306/16. sz. ügy António Fernando Maio Marques da Rosa kontra Varzim Sol – Turismo, Jogo e Animação, SA.

- [23] C-684/16. sz. ügy Max-Planck-Gesellschaft zur Förderung der Wissenschaften e.V. és Tetsuji Shimizu.
- [24] C-426/11 sz ügy Alemo-Herron és társai kontra Parkwood Leisure Ltd.
- [25] C-103/16. sz. Porras Guisado-ügy.

#### Online resources

- [26] *Alapjogi Charta hatékony alkalmazása a 2021-2027 közötti programozási időszakban* <https://archiv.palyazat.gov.hu/download.php?objectId=1097467>, 2 June 2024.
- [27] FRIEDERY Réka – HORVÁTHY Balázs: *Európai Unió Alapjogi Chartája*. 2018. [https://real.mtak.hu/85737/1/Friedery\\_Horvathy%20EU%20Alapjogi%20Charta.pdf](https://real.mtak.hu/85737/1/Friedery_Horvathy%20EU%20Alapjogi%20Charta.pdf), 6 June 2024.
- [28] TÓTH Júlia: *Az Európai Unió jogrendszere*, 77. [https://epa.oszk.hu/02700/02750/00012/pdf/EPA02750\\_tudasmenedzsment\\_2005\\_02\\_069-080.pdf](https://epa.oszk.hu/02700/02750/00012/pdf/EPA02750_tudasmenedzsment_2005_02_069-080.pdf), 5 June 2024.
- [29] BÓDI Marianna: *Az egészséges és biztonságos munkakörülmények biztosításának lehetőségei* [https://www.nive.hu/Downloads/Szakkepzesi\\_dokumentumok/Bemeneti\\_kompetenciak\\_meresi\\_ertekelesi\\_eszkozrendszeren\\_ek\\_kialakitasa/1\\_2326\\_007\\_101231.pdf](https://www.nive.hu/Downloads/Szakkepzesi_dokumentumok/Bemeneti_kompetenciak_meresi_ertekelesi_eszkozrendszeren_ek_kialakitasa/1_2326_007_101231.pdf), 2 June 2024.
- [30] MÉLYPATAKI Gábor: *Az Ipar 4.0. és a jog kapcsolata – Problémafelvetések a foglalkoztatás és szociális biztonság témaköre kapcsán*. <https://ojs.elte.hu/jesz/article/view/5533/4479>, 29 June 2024.