

SAK

The Supreme Administrative Court Case: KHO:2025:41 HFD:2025:41 - Korkein hallinto-oikeus

Working Hours and Employment Status of Food Couriers

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Paula Ilveskivi, senior legal advisor

Background of the case

2020 – OSH Authority asked the Labour Council (official translation: Advisory Board for Labour Affairs) for an opinion

Questions:

- Whether the Working Hours Act applies to the work of food couriers employed by Wolt (and Foodora)
- Whether food couriers who might be in an employment relationship would fall outside the scope of the Working Hours Act based on Section 2, Subsection 1, Paragraph 4 of the Act. (National Law)

Labour Council's Opinion TN 1482-20 (6-3) and TN 1481-20 (6-3)

As a preliminary question, it was necessary to determine whether the food couriers qualify as 'workers', and subsequently to assess the applicability of the Working Hours Act

- Couriers **are employees** under the Employment Contracts Act
- All employment relationship criteria met
- **No factors have emerged in the couriers' work that would indicate the working time autonomy** → the Working Hours Act applies

OSH Authority's decision (administrative)

- The OSH authority decided the matter in accordance with the opinion of the Labour Council
- Platform enables **management and supervision**
- Couriers perform delivery assignments under management and supervision via Wolt's digital platform
- Wolt can exercise supervision if necessary
- The working time autonomy **should be assessed during the performance of work**. In this case, the status of the worker should be assessed when **the courier has logged into the platform and accepted a delivery task**.
- OSH Authority argued: Working Hours Act should apply



Wolt appealed to the Administrative Court

Decision of the Administrative Court

- Upheld Volt's appeal and annulled the decision of the OSH authority.
- Couriers are not employees:
 - Hours: Flexible; no obligation to log in or accept tasks
 - Courier decides how to work
 - Courier chooses task locations
 - Monitoring: Only checks timely delivery, not quality
- Wolt is not required to keep working time records



OSH appealed to the Supreme Administrative Court

Supreme Administrative Court Review

The matter to be resolved:

Whether the OSH Authority could require Wolt to **keep working time records** of all hours worked by its workers and the compensation paid for those hours.

In this regard, the first assessment is whether the couriers of Wolt perform their **work under an employment relationship or as independent contractors**.

If the work is deemed to be performed under an employment relationship, it is also necessary to assess **whether the Working Hours Act applies to the couriers, considering the exceptions** to its scope provided in Section 2 of the Working Hours Act. (National legislation)

Employment Relationship Assessment

Conditions of Employment Contracts Act:

- Work for employer
- Work personally
- Under employer's direction & supervision
 - Digital platform = control & quality monitoring
 - Independence only fictional

CJEU judgements

- *Union syndicale Solidaires Isère* C-428/09
- *Haralambidis* C-270/13
- *FNV Kunsten Informatie en Media* C-413/13
- *Sindicatul Familia Constanța and others* C-147/17
- *Order: Yodel Delivery Network* C-692/19

Since the matter concerns an issue related to the Working Time Directive, the interpretation must also take into account the settled case-law of the Court of Justice of the European Union on the concept of 'worker'

Court's Conclusion on Employment status

All criteria for employment relationship are met

- Subordination exists despite flexibility
- Couriers are, on the whole, in a subordinate position to Wolt
- Wolt can monitor and supervise the couriers' work performance using the digital platform it manages including the quality requirements set for the couriers' work performance.
- Due to the subordination, the couriers' independence must be seen as largely fictional, hiding an actual employment relationship.
- EU Case Law: 'Worker' should be interpreted broadly (Haralambidis case)

Conclusion: Overall assessment confirms an employment relationship under Finnish Employment Contracts Act.

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Working Hours Act – Applicability

Contrary to the views of the Labour Council and the OSH Authority, the Supreme Administrative Court found that the Working Hours Act does not apply to couriers.

- Working Time Autonomy: Couriers' total hours are not predetermined; they choose scheduling and daily/weekly hours
- Work is done outside a fixed workplace
- Remuneration is fully performance-based

Final Outcome of the Supreme Administrative Court

- Couriers are **employees**
- **Working Hours Act** does **NOT** apply
- OSH Authority cannot require time records

The decision was not unanimous. One member of the court was of the opinion that the criteria for an employment relationship were not fulfilled in the case of food couriers

Problem: The Supreme Administrative Court applied the national Working Hours Act (implementing the Working Time Directive).

The key question: Does the national law comply with the Directive, and can working time autonomy be interpreted broadly to exclude more workers from its scope?

As the most recent development in the case:

- Wolt has resorted to an extraordinary remedy by applying for the annulment of the Supreme Administrative Court's final decision, invoking both a procedural error and the misapplication of the law as grounds.
- In support of its application for annulment, Wolt argues that the court rejected the relevance of the CJEU Yodel 'decision' on platform work on incorrect grounds and did not request a preliminary ruling from the CJEU on the interpretation of the Working Time Directive.

Legal Framework

National Legislation:

Working Hours Act, Section 1(1) and Section 2(1)(4) implements EU Working Time Directive
Employment Contracts Act, Chapter 1, Section 1(1)

European Union Directives:

Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time

Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work

Court of Justice of the European Union (CJEU) Decisions:

Judgment of 14 October 2010, Union syndicale Solidaires Isère (C-428/09, ECLI:EU:C:2010:612)

Judgment of 10 September 2014, Haralambidis (C-270/13, ECLI:EU:C:2014:2185)

Judgment of 4 December 2014, FNV Kunsten Informatie en Media (C-413/13, ECLI:EU:C:2014:2411)

Judgment of 20 November 2018, Sindicatul Familia Constanța and others (C-147/17, ECLI:EU:C:2018:926)

Order of 22 April 2020, Yodel Delivery Network (C-692/19, ECLI:EU:C:2020:288)

Case Summary and Procedural History: Wolt Courier Employment Dispute

Occupational Safety and Health Authority (OSH Authority) submits a question to the Labour Council (2020)

- Requested opinion on whether the Working Hours Act applies to food couriers.

Labour Council opinion

- Couriers are employees.
- Working Hours Act applies to their work.

OSH Authority issues its decision

- Decision consistent with the Labour Council's opinion.

Wolt appeals to the Administrative Court

- Administrative Court rules couriers are **not employees**.
- Working Hours Act does not apply.

OSH Authority appeals to the Supreme Administrative Court

- Supreme Administrative Court rules couriers **are employees**,
- But the **Working Hours Act does not apply** due to working time autonomy.

Wolt has resorted to an extraordinary remedy

- by applying for the annulment of the Supreme Administrative Court's final decision.
- Grounds: Alleged violation of EU law and procedural errors during the proceedings.