



**European Commission launches first step towards
review of working time rules**

First stage consultation of social partners

European Commission Press Release

EN Only

24/03/2010

CPME Info 074-2010

Source	European Commission
Object	Information
Date of elaboration of the document	24/03/2010
Date of transmission	25/10/2009
Object	EWTD
References	CPME Info 075-2010, CPME Info 183-2009 , CPME Info 077-2009 , CPME Info 076-2009 , CPME Info 073-2009 ; CPME Info 069-2009 ; CPME 2008/172 , CPME 2008/155 FINAL ; CPME 2008/154 ; CPME 2008/141 FINAL
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Reference: [IP/10/345](#)
Brussels, 24 March 2010
Europa RAPID Press Release

The European Commission has today requested the views of workers' and employers' representatives on the options for reviewing EU rules on working time. The first stage consultation asks the European social partners at whether action is needed at EU level on the Working Time Directive (2003/88/EC) and what scope it should take. This represents the first step towards a comprehensive review of the Directive and comes after previous the attempts to revisit the existing legislation reached an impasse in April 2009.

László Andor, EU Commissioner for Employment, Social Affairs and Inclusion said: "*The failure to reach an agreement on revising the working time legislation last year does not mean the problems around the existing rules have gone away. We still need to find a balanced solution that addresses the real needs of workers, businesses and consumers in the 21st century.*" He underlined: "*We need a comprehensive review of the rules based on a thorough impact assessment with a strong social dimension. Today we invite the social partners to reflect broadly on this crucial issue and to come forward with innovative proposals that move beyond unsuccessful debates of the past.*"

In 2004, the Commission put forward a proposal to amend Directive 2003/88/EC, following wide consultations. The proposal aimed to tackle a series of problems left unsolved by the existing legislation and case law of the Court of Justice, namely to clarify the Directive's application to on-call time in certain sectors of work; to give more flexibility in calculating weekly working time; and to review the individual opt-out from the 48-hour limit. However, in April 2009, government representatives and the European Parliament concluded they could not reach agreement on the proposal, despite lengthy negotiations.

In the meantime, other issues have been added to the debate, reflecting fundamental changes in the world of work over the past twenty years. For example, average weekly working hours in the EU have fallen from 39 hours in 1990 to 37.8 hours in 2006 and the share of part-time workers in the workforce increased from 14% in 1992 to 18.8% in 2009. There is also more and more variation in individuals' working time over the year and over working life, reflecting more emphasis on work-life balance measures such as flexitime and time credit systems, as well as increasing workers' autonomy in parallel with the expansion of the knowledge-based economy.

As a result, the Commission is planning a comprehensive review of the existing working time rules, starting with a thorough evaluation of the current provisions and issues in their application, before considering the different options to address these issues.

The review will be shaped by a set of policy objectives, including protecting workers' health and safety, improving balance between work and private life, giving businesses and workers flexibility without adding unnecessary administrative burdens for enterprises, especially SMEs.

The first stage consultation of social partners is an important first step towards such a comprehensive review of the Working Time Directive. The social partners have six weeks to make their views known to the Commission. In parallel to the consultations, the Commission will carry out an extensive impact assessment, including an examination of the legal application of the Directive in the Member States and a study of the social and economic aspects that are pertinent to a comprehensive review of the Directive.

Background

The first phase of consultation of the social partners at EU level is provided for in Article 154(2) TFEU. In this phase, the Commission is looking for the social partners' views on whether action is needed at European Union level on the Working Time Directive, and on the scope of such an initiative.

The Commission will examine the views expressed during this first phase, and will then decide whether EU action is advisable. If the Commission decides that it is, it will launch a second-phase consultation of the social partners at EU level. That phase will cover the content of any proposal for action, in accordance with Article 154(3) TFEU.

Working Time Directive – first stage consultation of social partners

What is the Working Time Directive?

The Working Time Directive (2003/88/EC) is part of the EU's health and safety laws to protect workers. It limits the average working hours per week to 48 hours (though if a Member State so chooses, a worker can work longer average hours if she or he freely consents to do so, the so-called 'opt-out'). It also lays down minimum daily and weekly rest periods to avoid overwork. Following several judgments of the Court of Justice, the Directive also applies to 'on-call' time.

Is the Commission making a proposal to amend the Working Time Directive?

Not at this stage. The Commission is planning a comprehensive review of the existing working time rules, starting with a thorough evaluation of the current provisions and issues in their application, before considering the different options to address these issues.

The review will be shaped by a set of policy objectives, including ensuring that workers' health and safety is effectively protected, improving balance between work and private life, giving businesses and workers more flexibility about their working time, arrangements, and avoiding unnecessary administrative burdens for enterprises, especially SMEs.

What happened to the last Commission proposal on Working Time?

In 2004, the Commission put forward a proposal to amend Directive 2003/88/EC, following wide consultations. This was extensively discussed by the European Parliament and EU Member States in the Council during 2004-2009.

The proposal aimed to tackle a series of problems left unsolved by the existing rules and case law of the Court of Justice, namely to clarify the Directive's application to 'on-call' time; to give more flexibility about the timing of minimum rest and the calculation of weekly working time; and to review the individual opt-out from the 48-hour limit. Other issues were added during the discussions.

However, in April 2009, government representatives and the European Parliament concluded they could not reach agreement on the proposal, despite lengthy negotiations. As a result, the 2004-2009 proposal automatically fell.

Why does the Commission still want to review the existing rules?

The failure to reach an agreement on revising the working time legislation last year does not mean the problems around the existing rules have gone away. Some questions remain unclear, and there are substantial difficulties for some Member States in implementing some aspects of the rules.

In the Commission's view, the present situation is clearly unsatisfactory: We need to ensure that workers' health and safety is being effectively protected across the European Union in line with EU law, and that sufficient flexibility is afforded to businesses and workers in the organisation of working time.

In addition, there have been fundamental changes in the world of work over the past twenty years.

An example is the polarisation of working time. Part-time work continues to increase (from 14% of the EU workforce in 1992 to 18.8% in 2009), yet 10% of all employees in the EU work more than 48 hours a week on average, and nearly 7% of all employees work in multiple jobs.

There is also more and more variation in individuals' working time over the year and over working life, reflecting more emphasis on work-life balance measures such as flexitime and time credit systems. At the same time, technological change and the growth of the knowledge economy lead to major changes in work organisation, with less separation between work and leisure, more mobile working (teleworking, nomadic working) and more emphasis on autonomous working.

What is the first stage consultation and who is being consulted?

The consultation of social partners is an important first step towards a comprehensive review of the Working Time Directive. This first phase of consultation gives workers' and employers' representatives the right to make their views known to the Commission as to whether action is needed at European Union level on the Working Time Directive, and on the scope of such an initiative.

In practice, the Commission formally requests the views of representative social partner organisations at EU level, for example BusinessEurope, the European Trade Union Confederation (ETUC) and the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP), as well as social partner organisations which exist at EU level for specific sectors. The social partners then have six weeks to make their views known to the Commission.

This procedure is provided for in Article 154(2) in the Treaty on the Functioning of the EU.

What will happen next?

The Commission will examine the views expressed during this first phase, and will then decide whether EU action is advisable. If the Commission decides that it is, it will launch a second-phase consultation of the social partners at EU level. That phase will cover the content of any proposal for action, in accordance with Article 154(3) TFEU.

In parallel to the consultations, the Commission will carry out an extensive impact assessment, including a study of the social and economic aspects that are pertinent to a comprehensive review of the Directive.

Why is this not a public consultation?

The EU Treaties set out particular rules for social policy legislation, including Working Time, which specifically require the Commission to consult the European social partners before making any legislative proposal in this area.

How many hours a week do Europeans work on average?

According to EUROSTAT, in 2007 (the last date for which EU-27 statistics are published), a full-time worker in the EU-27 worked 41.8 hours per week on average¹. A part-time worker in the EU-27 worked 20 hours per week on average.

Certain groups work longer than these averages – for example, workers who do long overtime, self-employed people working full-time, and employees working full-time who also work in a second job.

¹ : Figures given above are for the main job only. For workers who have a second job, the EU-27 average in 2007 was 12.5 hours' work per week in the second job, in addition to their main (full-time or part-time) job.