Organisation of working time

2004/0209(COD) - 05/11/2008 - ${summary.subTitle}

The Committee on Employment and Social Affairs adopted a recommendation for the second reading in a report drafted by Alejandro CERCAS (PES, ES) amending the Council?s common position on a directive of the European Parliament and of the Council amending Directive 2003/88/EC concerning certain aspects of the organisation of working time.

The main amendments adopted are as follows:

On-call time: according to MEPs, all on-call time, including the inactive part of it, should be considered as working time. However, inactive parts of on-call time may, by collective agreements or other agreements between the two sides of industry or by means of laws or regulations, be calculated in a specific manner in order to comply with the maximum weekly average working time laid down in Article 6 of the common position, subject to compliance with the general principles relating to the protection of the safety and health of workers.

Calculation of working time: in order to protect workers? health, MEPs consider that working time should be calculated per person and not per contract. as people may have more than one contract. Thus, where a worker has more than one contract of work, measures be taken to ensure that the worker's working time is defined as the sum of the periods of time worked under each of the contracts.

Reconciliation of work and family life: the Member States should ensure, in consultation with the social partners:

- that employers inform workers well in advance of any change in the pattern of working time, and - workers have the right to request changes to their hours and patterns of work, and
- that employers have the obligation to consider such requests fairly, having regard to the flexibility needs of employers and employees. An employer may refuse such a request only if the organisational disadvantages for the employer are disproportionately greater than the benefit to the worker.

Derogations: derogations to the directive should be limited to safeguard its health and safety principles, which should apply regardless of the position of the persons concerned. Members also insist that compensatory rest periods follow work periods, as laid down by the Court of Justice.

Limitations on derogations to the reference periods: according to the common position, the Member States have the option, while respecting the general principles of the protection of the health and safety of workers, to allow that, for objective or technical reasons or reasons relating to the organisation of work, the reference period should be extended to a period not exceeding twelve months. The MEPs specify that this may only be agreed by legislative or regulatory provision, following consultation of the social partners at the appropriate level, in cases where workers are not covered by collective agreements or other agreements between the two sides of industry, provided that the Member State concerned takes the necessary measures to ensure that:

- the employer informs and consults with workers and/or their representatives about the introduction of the proposed working time pattern and alterations thereto;
- the employer takes the necessary measures to prevent and/or remedy any health and safety risks that may be related to the proposed working time pattern.

Maximum weekly working time (Article 6): Members propose that the Member States can decide not to apply Article 6 during a transitional period ending 36 months after the entry into force of the directive, provided that they take the necessary measures to ensure the effective protection of the safety and health of workers.

Opt-out: according to the common position, the limit for workers who have opted out would be 60 hours (an average calculated over a three-month period) unless otherwise provided for in a collective agreement or an agreement between the social partners, or 65 hours, calculated as an average over a period of three months, in the absence of a collective agreement and when the inactive part of on-call time is regarded as working time. Members consider that a 60- or 65-hour working week is too long and, for this reason, deleted this provision.