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REPORT

on the Commission report: ‘State of implementation of Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (‘Working Time Directive’)
(COM(2000) 787 – C5-0147/2001 – 2001/2073(COS))

Committee on Employment and Social Affairs

Rapporteur: Ioannis Koukiadis

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PROCEDURAL PAGE

By letter of 1 December 2000, the Commission forwarded to Parliament its report: 'State of implementation of Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time ('Working Time Directive')' (COM(2000) 787 – 2001/2073(COS)).

At the sitting of 2 May 2001 the President of Parliament announced that she had referred the report to the Committee on Employment and Social Affairs as the committee responsible and the Committee on Fisheries, the Committee on Regional Policy, Transport and Tourism and the Committee on Women's Rights and Equal Opportunities for their opinions (C5-0147/2001).

The Committee on Employment and Social Affairs had appointed Ioannis Koukiadis rapporteur at its meeting of 18 January 2001.

The committee considered the Commission report and the draft report at its meetings of 3 December 2001 and 7/8 January 2002.

At the latter meeting it adopted the motion for a resolution by 36 votes to 3, with no abstentions.

The following were present for the vote: Michel Rocard, chairman; Winfried Menrad and Marie-Thérèse Hermange, vice-chairmen; Ioannis Koukiadis, rapporteur; Jan Andersson, Elspeth Attwooll (for Luciano Caveri), Regina Bastos, André Brie (for Sylviane H. Ainardi), Philip Bushill-Matthews, Alejandro Cercas, Luigi Cocilovo, Elisa Maria Damião, Proinsias De Rossa, Den Dover (for David Sumberg), Harald Ettl, Jillian Evans, Carlo Fatuzzo, Ilda Figueiredo, Hélène Flautre, Marie-Hélène Gillig, Anne-Karin Glase, Roger Helmer (for Ilkka Suominen), Richard Howitt (for Claude Moraes), Stephen Hughes, Anne Elisabet Jensen (for Luciana Sbarbati), Rodi Kratsa-Tsagaropoulou, Elizabeth Lynne, Thomas Mann, Mario Mantovani, Helmuth Markov (for Arlette Laguiller pursuant to Rule 153(2)), Paolo Pastorelli (for Guido Podestà), Manuel Pérez Álvarez, Bartho Pronk, Herman Schmid, Miet Smet, Helle Thorning-Schmidt, Anne E.M. Van Lancker, Barbara Weiler and Sabine Zissener (for Tokia Saïfi).

The opinions of the Committee on Fisheries and the Committee on Women's Rights and Equal Opportunities are attached; the Committee on Regional Policy, Transport and Tourism decided on 25 April 2001 not to deliver an opinion.

The report was tabled on 18 January 2002.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

MOTION FOR A RESOLUTION

European Parliament resolution on the Commission report: ‘State of implementation of Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (‘Working Time Directive’) (COM(2000) 787 – C5-0147/2001 – 2001/2073(COS))

The European Parliament,

- having regard to the Commission report (COM(2000) 787 – C5-0147/2001¹),
- having regard to Rule 47(1) of its Rules of Procedure,
- having regard to the report of the Committee on Employment and Social Affairs and the opinions of the Committee on Fisheries and the Committee on Women's Rights and Equal Opportunities) (A5-0010/2002),
- A. whereas the Commission’s report gives general information on the way in which Member States have transposed and implemented Council Directive 93/104 of 23 November 1993,
- B. whereas Directive 93/140 has been transposed through state legislative measures (laws, decrees) in some cases and through non-state measures (collective agreements) in others,
- C. whereas the transposition of the directive through collective agreements may in some cases have hampered its practical and widespread implementation, since the Member States did not ensure that the directive was applied to all workers and not only those in sectors where collective agreements had been signed,
- D. whereas the majority of Member States had not implemented the directive by the final deadline for implementation,
- E. whereas the report does not contain an exhaustive, detailed examination of all national implementation measures,
- F. whereas the number of infringement proceedings brought before the Court of Justice by the Commission has increased,
- G. whereas the directive on the organisation of working time was adopted within the framework of Directive 89/391 concerning health and safety at work,
- H. whereas Directive 93/104 does not define the term 'worker', but refers back to the framework directive, which defines it as any person working for an employer,
- I. whereas the derogations from the provisions of the directive, which are divided into three categories, each with different conditions, are extensive and often expressed in unclear terms,

¹ Not yet published in OJ.

- J. whereas confusion reigns in some countries with regard to the distinction between the permitted derogations from certain provisions and the total exclusion of certain situations from the directive's scope,
 - K. whereas the policy of improving the quality of employment rests first and foremost on compliance with safety rules and health protection measures,
 - L. whereas the directive applies to working relationships in both the public and the private sectors,
 - M. having regard to the development of modern forms of atypical working relationships and other working patterns,
 - N. having regard to the ILO's international labour conventions on working time,
 - O. whereas some 'vulnerable' groups of worker, such as working mothers, minors, the disabled, etc. need additional health protection,
 - P. whereas the derogations from certain provisions should under no circumstances lead to the deprivation of certain basic rights,
 - Q. whereas the flexibility governing the provisions of the directive makes it easier to apply it to distinct particular circumstances, but at the same time creates considerable interpretation difficulties,
 - R. whereas Community legislation rightly recognises collective labour agreements as a suitable means of implementing directives, on condition that equal results in application are guaranteed in comparison with legal implementation measures taken by the state, and that there are equal opportunities for legal review of correct application,
 - S. whereas the reference to national legislation and practices, which is necessary in order to facilitate the exercise of certain rights, cannot be used as a pretext for failure to implement provisions of the directive; whereas, lastly, the completion of the internal market should lead to an improvement in the living and working conditions of workers in the European Community, a process that will be achieved through progress towards harmonisation of these conditions, and whereas such harmonisation will be secured not through the transposition of rules but through their effective implementation,
1. Welcomes the fact that new directives cover the areas excluded from the scope of the original directive;
 2. Regrets the fact that some Member States, in order to avoid reporting the measures missing from full transposition of the directive, resort to the tactic of claiming that their existing legislation covers the provisions of the directive;
 3. Regrets the fact that, although the relevant provisions are worded in such a way as to leave room for manoeuvre, and lengthy transitional periods were provided, many Member States have displayed a reluctance to implement the directive in a correct and timely fashion;
 4. Calls for an investigation into why the Member States refuse to comply with certain of the

directive's provisions;

5. Shares the Commission's concerns that the derogations provided for by national legislation go beyond what is permitted by Article 17 and that in some cases certain categories are totally excluded from the scope of Community law; calls on the Commission to clarify the concepts of exemptions and exceptions;
6. Asks the Commission to monitor the effects for the sea fishing and fish processing industries of being covered by different rules and to comments on these effects in its implementation reports;
7. Expresses its concern that the possibility of transposing the directive by means of collective labour agreements is causing the Member States to be unable to submit a full list of the contents of the collective labour agreements in order to make possible a check on the gaps in transposal of the directive;
8. Calls on the Commission to ensure that the Member States which transpose the directive by means of collective labour agreements see to it that all workers are covered;
9. Regards the agreement reached by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers in the European Union (FST) embodied in Directive 1999/63/EC as an example of best practice and asks the Commission and Council to encourage the social partners toward the conclusion of such agreements;
10. Calls on the Commission to ensure that the directive is fully applied in the public sector;
11. Calls on the Commission to speed up and complete checks on the application of the directive, as well as infringement proceedings before the Court of Justice in cases of incorrect application;
12. Calls on the Commission to investigate the conditions of application of the directive to new working time patterns such as precarious work, part-time work and fixed-term work;
13. Calls on the Commission to study the particular characteristics of the work of home workers, whose numbers are rising as teleworking becomes more widespread, in order to make use of the suggestions contained in the ILO's recommendation of 1996, to encourage the social partners in negotiating the directive on teleworking and to regulate the relevant working time issues;
14. Calls on the Commission to make special checks on the compatibility with the directive of working time regulations governing pregnant women, women in the post-natal period, the disabled, trainees and apprentices, and minors;
15. Calls on the European Commission to closely follow-up the realisation in the Member States of Article 9 as regards pregnant and post-natal workers, implementing a medical follow-up system and enabling women, where required, to transfer to day work for the duration of the pregnancy;
16. Calls on the Commission to distinguish, in view of the Court of Justice's judgement concerning the meaning of working time and periods of readiness to work, cases of

readiness for work, requiring the worker to have alert physical and mental faculties and to be present in the workplace, from the cases, excluded from working time, of simply being on standby;

17. Calls on the Commission to specify clearly the circumstances which are considered to be derogations from the application of the directive, with the workers' consent (voluntary derogations);
18. Calls on the Commission to monitor the way in which Member States define the meaning of 'managing executives or other persons with autonomous decision-taking powers' (Article 17(1)(a));
19. Stresses the need for the Commission to remind the Member States of their obligation to include clear definitions of basic terms, such as maximum working time and night work;
20. Stresses that the Commission must ensure that separate laws cover overtime night work and that the uncertainty regarding the method of calculating maximum working time is removed, and accordingly that an overall ceiling on permitted work is clearly set out;
21. Stresses that since the right to paid leave is a fundamental right, it must be guaranteed for all categories of workers, in proportion to the period of employment spent with an employer; special care should be taken to ensure that paid holidays are included in short-term employment contracts;
22. Stresses that replacing paid leave with compensation is not wholly compatible with the directive;
23. Calls on the Commission to coordinate the monitoring of the application of the Working Time Directive with the monitoring of compliance with the obligations imposed within the framework of the directive on the health and safety of workers, so that the level of protection of all workers regarding health and safety can be assessed as a whole;
24. Instructs its President to forward this resolution to the Council and Commission and the parliaments of the Member States.

EXPLANATORY STATEMENT

1. General comments

- 1.1 The Commission's report deals with the practical implementation of the provisions of national law which the Member States had already passed or which they passed in the field governed by Directive 93/104. The report does not deal with the revised Directive 200/34 or other related directives.
- 1.2 The legal basis of Directive 93/104 is Article 118a of the Treaty establishing the European Community and it follows on from Directive 89/399 on the introduction of measures to encourage improvements in the safety and health of workers at work. Additionally, it aimed to implement the Community Charter of the Fundamental Social Rights of Workers, under which the completion of the internal market must lead to an improvement in the living and working conditions of workers through a progressive approximation of these conditions and the organisation of working time for all forms of employment contract. Thus, it covers all types of employment contract.
- 2.1 As stressed in the past, this directive did not introduce totally new protection arrangements. In this context it is interesting to note that on the subject of working time, as with other social policy issues, the laws of the Member States often fall short of the protection given by international labour conventions, which nevertheless are jointly agreed on by governments, employers and trades unions and are intended not only for developed countries, but also, and at the same time, for developing countries.
- 2.2 The distinction between complete exclusion from the directive's scope and permitted derogations from certain provisions, although clearly expressed in the directive, has led in practice to some misinterpretation and confusion, so that on several occasions complete exclusion has been equated with mere derogation. Specifically, a broad interpretation of the derogations has resulted in failure to apply the directive.
- 2.3 Unfortunately, a large number of Member States also have not notified the Commission of all the national implementation measures. Because of this, five years after the directive first came into force the national measures to implement the directive are still not being analysed and assessed on the basis of official data sent by the Member States but on the basis of information which the Commission has collected.
- 2.4 The cases of defective application of the directive may be divided into three groups of issues. The first concerns the wording of certain definitions in such a way as to lead to misinterpretation.

The second concerns the fact that the derogations from certain provisions, which are divided into three categories, are disparate, in the sense that there are varying reasons behind them and correspondingly, there are divergences from provisions which are different in each case.

The third case of defective implementation is connected with the more general possibility given by the treaties regarding the transposal of a directive in a Member

State by means of a collective labour agreement. This possibility, which promotes collective autonomy (see Article 137(4) in conjunction with Article 249 of the Treaty) and legitimises the implementation of a directive through the participation of workers should certainly be supported. However, in no case should this possibility be linked to defective transposal of the directive. On the contrary, it requires the Member States to take care to ensure that the directive is applied to all workers and not just to those sectors for which the collective labour agreement was concluded.

3. The Commission report refers to technical legal aspects linked to the defective implementation of the directive. This is unavoidable for an issue such as the organisation of working time, which has many technical problems. The report also gives information on several problems encountered in the practical implementation of the directive. However, this information is not complete. A large share of the responsibility should go to the Member States hiding behind the possibility of transposing the directive by means of collective agreements.

In addition, as mentioned above, the directive's objective is improvement in the health and safety of workers. This improvement is usually perceived as a cost factor and therefore, many reservations are observed concerning full and correct application of the provisions. Thus, the fact that a high level of health and safety among workers is a factor contributing to productivity passes unnoticed. Accordingly, it would be desirable for future reports to include an assessment, at least in qualitative terms, of the directive's contribution to health and safety issues.

Bearing in mind that Article 1(4) states that the provisions of Directive 89/391 are fully applicable to the matters referred to in paragraph 2, we would expect the report to say to what extent the corresponding obligations imposed on employers by Directive 89/391 are being applied and to comment on the fulfilment of their obligations concerning the organisation of working time.

II. Specific comments on various articles

Scope (Article 1(2))

With regard to the directive's scope, certain problems remain concerning application to public sectors of activity. In defining 'workers in public sectors of activity', the directive refers to Article 2 of Directive 89/391. It follows from the wording of this article that it must be applied to all workers in the public sector, both workers with a contract of employment and those who are clearly public officials (civil servants). The report reveals that there is no clear picture of how far the directive is being applied to the public sector.

Definitions (Article 2)

First of all a general observation needs to be made. There are Member States whose laws do not contain general definitions for key concepts, such as the concept of working time, maximum working time, weekly rest period etc.

With regard to the concept of working time, Article 2(1) states that working time is 'any

period of time during which the worker is working, at the employer's disposal and carrying out his activities or duties, in accordance with national law and/or practice', and this opens the door to significant variations between Member States concerning the reduction or increase of working time. There are two errors in the definition: first, the reference to national law in defining such a fundamental concept, and second, a narrowing in the concept of working time, because as well as the worker being at the employer's disposal it requires him to be carrying out actual activities. This issue went to the Court of Justice, over doctors' on-call duties, and the Court correctly held, according to the traditional understanding in this profession, that from the moment when the doctor is at the disposal of the service, regardless of whether or not he is performing duties, he is considered to be working.

It should be pointed out that this subject is relevant not only to on-call duties, but to many other circumstances where employees are at the workplace, are at the employer's disposal, but the employer is not putting them to work. It applies to all cases of genuine readiness to work, where apart from physical presence at the workplace, the worker has alert physical and mental faculties. This case must be distinguished from the case of readiness to be called to work, in which the worker is outside the workplace, and may be carrying out any sort of activity, but is obliged, when called, to carry out his duties, or from other cases in which there is no obligation to be in an alert state.

The definition of maximum working time in relation to overtime is also an issue. Here, the main problem is that it is not crystal clear from the various Member States whether maximum working time includes overtime, as the directive requires, or not.

Also, while the directive distinguishes the concept of night time, which must include the period between midnight and 5 a.m., from the concept of night worker, for which all that is required is for a person to work certain night time hours, there is no clear answer to the question of when a worker is considered to be working at night.

Breaks (Article 4)

The issue of breaks seems to be adequately dealt with in national law, with average break time ranging from 15 to 30 minutes.

Weekly rest period (Article 5)

The interesting part of this provision is paragraph 2, which says that the minimum rest period shall in principle include Sunday. In the case *United Kingdom of Great Britain and Northern Ireland v Council* (C-84/94), the Court of Justice held this provision to be void. For this reason, it was subsequently deleted from Article 1(3) of the new directive 2000/34. In any case, 9 of the 15 Member States continue to provide for Sunday to be a day of rest.

Secondly, some exceptions are observed both to the maximum working time of 35 hours and the minimum rest period in a seven-day period (see the case of the Low Countries, for example), without any reference being made to the reasons and the specific activities referred to by Article 17 of the directive.

Maximum weekly working time (Article 6)

This section is one of the most sensitive in the directive. The application of Article 6 is particularly difficult because of the differing ways in which maximum working time is defined by the Member States. The article specifies that the average working time for each seven-day period must not exceed 48 hours.

Annual leave (Article 7)

The right to annual paid holiday leave is considered to be a fundamental individual right. In general, application does not present any particular problems. Nevertheless, the report does not clarify whether this right is guaranteed without exception for all categories of worker and whether it is accompanied by the payment of holiday pay – the term used by Article 7 – and not merely compensation.

We should also bear in mind that after the recent Court of Justice decision, the right to leave must be guaranteed on a pro rata basis, regardless of the length of time for which the employee has been employed. Given this, those who have only been hired for a few months must qualify for leave, as well as those who change employer after a few months. We might envisage that a newly-hired employee on a contract for an indefinite term will have to wait for a minimum period before exercising his right.

Another point where there is confusion is over whether bank holidays are included in the four-week period. Given that the aim of leave is to be free of the obligation to work for a period of time in order to recuperate physically and mentally, leave must be considered to apply only to working days.

Night work and other issues (Articles 10 to 13)

We have referred to night work above. However, we should pay particular attention to the report's general conclusion, which states that in some Member States there is no legislation on night work, while in other Member States the limits on night time work do not include overtime.

Derogations (Article 17)

Reference has already been made above to the specific derogations provided for from the application of certain articles. However, the rapporteur would like to draw attention, in addition, to the proviso set out in Article 17(1), under which it is possible to specify derogations when the worker is in agreement. This proviso, which was introduced as a flexibility clause, has the effect not of permitting unlimited derogations on any occasion when the worker agrees, but only when there are circumstances which justify it. However, it seems that in some Member States the link with objective circumstances is not obvious.

Final provisions (Article 18)

Under Article 18(1)(b)(ii), before the expiry of a period of seven years from the end of the three-year deadline, the Council, on a proposal from the Commission which is accompanied by an appraisal report, shall re-examine the provisions of point (i) of Article 18(1)(b), and decide on what action to take. This applies to the right of a Member State not to implement Article 6 on maximum weekly working time. The Commission should take action on this provision.

25 April 2001

OPINION OF THE COMMITTEE ON FISHERIES

for the Committee on Employment and Social Affairs

on the report from the Commission on the State of Implementation of Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time ('Working Time Directive')
(COM(2000) 787 – C5-0147/2001 – 2001/2073(COS))

Draftsman: Elspeth Attwooll

PROCEDURE

The Committee on Fisheries appointed Elspeth Attwooll draftsman at its meeting of 23 January 2001.

It considered the draft opinion at its meetings of 6 February, 21 March and 24 April 2001.

At the last meeting it adopted the following conclusions unanimously.

The following were present for the vote: Daniel Varela Suanzes-Carpegna, chairman; Rosa Miguélez Ramos, Hugues Martin vice-chairmen; Elspeth Attwooll, draftsman; Arlindo Cunha, Pat the Cope Gallagher, Michael John Holmes, Ian Stewart Hudghton, Heinz Kindermann, Brigitte Langenhagen, Giorgio Lisi, Albert Jan Maat, John Joseph McCartin, Patricia McKenna, James Nicholson, Bernard Poignant, Struan Stevenson and Catherine Stihler.

SHORT JUSTIFICATION

Directive 93/104/EC is of specialist interest to the Fisheries Committee in that it affects the fish processing and aquaculture industries. It notes that the Directive makes no specific reference to them. It welcomes the fact that, even though aquaculture in some ways resembles agriculture, for which there are particular provisions under Article 17 of the Directive, a derogation has not been requested. The Committee notes, however, that the land based fish processing industry experiences problems in applying directive 93/104/EC since it is so closely linked to the sea fishing activities.

Measures affecting sea fishers are to be found rather in Directive 2000/34/EC, relating to various previously excluded sectors, which is due to be implemented in 2003. The requirements for periods of rest and limits on hours of work as they apply to sea fishers differ considerably from those applying to other workers under Directive 93/104/EC. It is considered that this might pose a problem in the future should the aquaculture industry develop in such a way that the activities of those engaged in it come to resemble more closely the activities of those engaged in sea fishing.

The Committee notes with some concern the different and somewhat uneven implementation of Directive 93/104/EC. Whilst accepting that flexibility in the implementation of directives is important for the principle of subsidiarity, the Committee wishes to stress issues of safety where work on fishing vessels is concerned. According to the Report by Mrs Miguélez Ramos on Fishing Safety, a high percentage of accidents take place after the first eight hours at work.

The Fisheries Committee, therefore, hopes that the periods of rest and limits on hours of work specified in Directive 2000/34/EC will be strictly adhered to as minima and that Member States will provide for higher standards to the fullest extent that the practicalities of activities in the industry dictate. The Committee also notes that there is provision for review of the Directive in relation to sea fishers by 1 August 2009. It is hoped that at this stage there will be proper clarification of the extent to which it applies to shore fishermen.

The Committee also notes the existence of Directive 1999/63/EC which applies to seafarers and which resulted from an agreement between the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST) endorsed by Council under Article 139 TEC. In view again of the nature of implementation of Directive 93/104/EC and of the difficulties in reaching agreement on the provisions of Directive 2000/34/EC, the Committee calls on the Commission and Council to consider whether, for the future, legislation on working time might be better arrived at through negotiations between the social partners in particular sectors.

Finally, the Committee wishes to express its satisfaction with the thoroughness and comprehensiveness of the Commission's Report.

CONCLUSIONS

For the above-mentioned reasons the Committee on Fisheries calls on the Committee on Employment and Social Affairs to incorporate the following points in its draft resolution.

1. Asks the Commission to monitor the effects for the sea fishing and fish processing industries of being covered by different rules and to comment on these effects in their implementation reports.
2. Stresses the necessity of taking into account developments in the fast growing aquaculture industry which might lead to a change in its current nature, since activities may take place further off-shore and have consequences for working conditions for the people employed in this sector.
3. Calls on the European Commission to watch strictly over the application of directive 93/104/EC in order to prevent different interpretations from conflicting with the spirit of this directive, while allowing flexibility in the way of implementation.
4. Considers the provisions concerning the period of rest and limits on working hours as laid down in Directive 2000/34/EC minimum levels and urges member states to strive for higher standards.

5. Requests the Commission to provide in its review of directive 2000/34/EC an account of how it has been implemented by member states in relation to share fishermen.
6. Regards the agreement reached by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers in the European Union (FST) embodied in Directive 1999/63/EC as an example of best practice and asks the Commission and Council to encourage the social partners toward the conclusion of such Agreements.

11 September 2001

OPINION OF THE COMMITTEE ON WOMEN'S RIGHTS AND EQUAL OPPORTUNITIES

for the Committee on Employment and Social Affairs

on the report from the Commission on the State of Implementation of Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time ('Working Time Directive')
(COM(2000) 0787 – C5-0147/2001 – 2001/2073 (COS))

Draftsperson: Maj Britt Theorin

PROCEDURE

The Committee on Women's Rights and Equal Opportunities appointed Maj Britt Theorin draftsperson at its meeting of 24 April 2001.

It considered the draft opinion at its meetings of 11 July 2001 and 11 September 2001.

At the latter meeting it adopted the following conclusions unanimously.

The following were present for the vote: Maj Britt Theorin, chairperson and draftsperson; Jillian Evans, vice-chairperson; María Antonia Avilés Perea, Ilda Figueiredo (for Marianne Eriksson), Marie-Hélène Gillig (for Elena Ornella Paciotti), Lissy Gröner, Heidi Anneli Hautala, Anna Karamanou, Christa Klab, Rodi Kratsa-Tsagaropoulou, Astrid Lulling, Maria Martens, Amalia Sartori, Patsy Sørensen, Joke Swiebel and Sabine Zissener.

SHORT JUSTIFICATION

Directive 93/104/EC is of special interest to the Committee on Women's Rights and Equal Opportunities in that it affects the safeguards and advantages for women workers. As has been established by the International Labour Organisation (ILO), special workplace protection is required for working women "because pregnancy, childbirth and the postnatal period are three phases in a woman's reproductive life in which special health risks exist."¹ Therefore, the requirements for periods of rest and limits on hours of work as these are applied to pregnant workers differ considerably to those applying to other workers under directive 93/104/EC.

The Committee notes with certain concern the uneven implementation of Directive 93/104/EC. Wishing to emphasise the issue of safety of pregnant and post-natal women, the Committee insists that the periods of rest and working hours, as laid out in Articles 3, 4, 5, 6 and 8, should be deemed as minima and that the Member States should provide for higher

¹ ILO, "Maternity protection at work" in *The World of Work*, No. 24, Geneva, April 1998.

standards to the greatest possible extent in different industries. The Committee requests the Commission to specifically monitor the effects for pregnant and post-natal workers of the different national working time regulations.

The Committee is specifically concerned as regards the uneven implementation of Article 9, requesting Member States to take the measures necessary to ensure: i) that night workers are entitled to a free health assessment before their assignment and thereafter at regular intervals; and ii) that those workers declared unfit for night work are transferred whenever possible to day work. Troubled by the safety of pregnant and post-natal women, the Committee calls on the Commission to closely follow-up the fulfilment of Article 9, implementing medical follow-up systems and enabling women, where required, to transfer to day work for the duration of the pregnancy.

CONCLUSIONS

For the above-mentioned reasons the Committee on Women's Rights and Equal Opportunities calls on the Committee on Employment and Social Affairs, as the committee responsible, to incorporate the following points in its motion for a resolution:

1. Calls on the European Commission to specifically monitor the effects of different national working time regulations for pregnant and post-natal night workers and to comment on these effects in the implementation reports.
2. Calls on the European Commission to closely follow-up the realisation in the Member States of Article 9 as regards pregnant and post-natal workers, implementing a medical follow-up system and enabling women, where required, to transfer to day work for the duration of the pregnancy.