

Review of the Working Time Directive - COM (2010) 106 final

1. Introduction:

The European Commission (EC) has launched the first stage of a consultation process to undertake a comprehensive review of the [Working Time Directive \(2003/88/EC\)](#). The Directive 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 he or she freely consents to do so, the so called 'opt-out'). It also lays down minimum daily and weekly rest periods to avoid overwork. Furthermore, following several judgments of the European Court of Justice (ECJ), the Directive also applies to 'on-call' time.

The EC considers it necessary to review the Working Time rules in the EU, and therefore it intends to conduct an evaluation, based on an impact assessment with a strong social dimension and a full-scale consultation of the social partners.¹

2. Background information

This is not the first time the EC has attempted to change the Working Time Directive. In 2004, the Commission put forward a proposal to amend the Directive. The proposal aimed to tackle a series of problems left unsolved by the existing legislation and case law of the ECJ, namely to clarify the Directive's application to on-call time in certain sectors of work (particularly in relation to workers in the healthcare sector); 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 on the above issues. (1)

The failure to reach an agreement does not mean that the problems around the existing rules have subsided. Indeed, some questions still remain unclear, and there are substantial difficulties for some Member States in implementing certain aspects of the rules. (2) In the meantime, other issues have emerged in the framework of the debate, reflecting fundamental changes in the world of work.

There is a growing awareness that working-time flexibility can help workers to reconcile their work and private life. Now that we have a more diversified EU workforce, flexible work schedules may provide workers with more opportunities to adapt working time to individual needs. Under certain circumstances, it may also enhance equal opportunities for employment and career progress, and facilitate access to employment for disadvantaged categories of job seekers. (3)

¹ 'Social partners' is a term generally used in Europe to refer to representatives of management and labour (employers' organisations and trade unions).

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3. Important points of the review

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. (1)

In the communication, the EC re-affirms that “the protection of workers' health and safety must continue to be seen as the primary goal of any working time regulation.”(3) The EC continues to assert that “a review of the Directive should start by analysing the impact of emerging changes in working patterns on the application of the current Directive, and identifying which of its provisions need to be adapted, simplified or clarified.” To a large extent, these difficulties in applying the Directive may reflect the need for a more fundamental adaptation of the present rules, including the adaptation or revision to the four key elements of the Directive:

- Working hours;
- On call time;
- Flexibility on the average of weekly working hours;
- Flexibility on the minimum daily and weekly rests.

However, the EC acknowledges that other goals should be considered. EU working-time arrangements play a very important role in improving the balance between work and family life, by providing workers with the time they need for managing their family responsibilities, and allowing them to influence the allocation of their working time. Account should also be taken of other EU legislation contributing to this objective, such as the directives on maternity leave, the new improvements agreed on parental leave² and part-time work. (3)

Therefore, amending the current Directive to promote working conditions that encourage and support a healthy work-life balance could significantly improve overall health and well-being of the EU workforce.

4. Next steps

The first stage of the consultation involves only the social partners. 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. (1)

² On 8th March 2010 the Council of the European Union approved the extension of paternity leave for parents.

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5. Follow up

The Equity Channel will provide progress updates on the review of the Working Time Directive and its potential impact on health equity and well-being as the debate develops. Please visit equitychannel.net for more information and don't forget to join our interactive community.

6. Additional Information

- [Working Time Directive - first consultation of the social partners \(Commission Communication\)](#)
- [Working Time Directive - Frequently Asked Questions](#)
- [DG Employment Social Affairs and Equal Opportunities – Working Conditions: Working Time Directive](#)

Notes:

1. DG Employment, Social Affairs and Equal Opportunities:
<http://ec.europa.eu/social/main.jsp?langId=en&catId=157&newsId=740&furtherNews=yes>
2. Working Time Directive - Frequently Asked Questions (MEMO):
<http://ec.europa.eu/social/BlobServlet?docId=4756&langId=en>
3. Working Time Directive - first consultation of the social partners, DG Employment, Social Affairs and Equal Opportunities, 2010.

The **Equity Channel** is developed by **EuroHealthNet** in collaboration with the Department of Health in England as a way to support international partners to communicate with interested people and bodies on the social determinants for health, and has a specific focus to improve EU policies in this field (www.equitychannel.net)

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