

## Organisation of working time

2004/0209(COD) - 31/05/2005 - Modified legislative proposal

The Commission is prepared to accept all the amendments set out below, which, it thinks, improve the proposal and maintain its aims and political viability, taking account of the positions already expressed by the Member States to the Council;

The main amendments adopted concern the following issues:

- citing the conclusions of the Lisbon European Council;
- a reference to increasing the rate of employment amongst women;
- addition of a reference to compatibility between work and family;
- a reference to the Charter of Fundamental Rights;
- aggregation of hours in cases involving several employment contracts;
- the deletion of Article 16b(2) and replacing it with another Article (Article 19) including measures aiming to amend the reference period. Member States shall have the option, subject to compliance with the general principles relating to the protection of the safety and health of workers, of allowing, for objective or technical reasons, or reasons concerning the organisation of work, the reference period to be set at a period not exceeding 12 months: by collective agreement or agreement between the social partners; by legislative or regulatory provision, provided that the Member States take the measures necessary to ensure that: the employer informs and consults the workers and/or their representatives in good time concerning the introduction of such a reference period; the employer takes the measures necessary to avoid or overcome any risk relating to health and safety that could arise from the introduction of such a reference period.
- the modification of compensatory rest time shall no longer automatically be 72 but shall be set by a collective agreement;
- introduction of a provision concerning the validity of opt-out agreements signed prior to the entry into force of this Directive.

By contrast, the Commission cannot accept at this stage the other amendments proposed by the Parliament. Some of them do not constitute an improvement to the Directive or are not acceptable from a strictly legal point of view. Others might, in the Commission's view, disrupt the balance of the initial text and make it more difficult to obtain an agreement or a sufficient majority in the Council.

The Commission is conscious of its role in the codecision procedure as an intermediary between the two arms of the Community legislature.

Among the amendments not accepted by the Commission it should be noted that, with regard to amendment No 20 (on the individual opt-out), the Commission has clearly indicated that, while unable to accept it as it is, it is prepared to explore a possible compromise on this question which is dividing the co-legislators.

Furthermore, with regard to the amendment concerning on-call time, the Commission also pointed out that it shares the concerns of the European Parliament with regard to the health and safety of workers who are regularly on call and that it would add a provision to ensure that inactive periods of on-call time are not taken into account with regard to the daily and weekly rest period.