

Organisation of working time

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The Council examined an amended proposal for a Directive submitted by the Commission on 31 May 2005, the aim of which is to amend Directive 2003/88/EC on the organisation of working time¹, following the opinion delivered by the European Parliament at first reading on 11 May 2005.

The aim of the Commission proposal is to improve legal certainty with regard to regulating working time, particularly in the light of the case law of the Court of Justice relating to inactive periods of on-call time in certain professions, particularly the medical profession.

The main amendments which the proposal for a Directive will introduce into Directive 2003/88/EC concern:

- ? extending the reference period for calculating maximum weekly working time to 12 months;
- ? introducing definitions of "on-call time" and "inactive periods of on-call time";
- ? conditions for applying the opt-out from the provisions relating to maximum weekly working time.

Following the Council's discussions, the President drew the following conclusions in an oral statement:

? Most Member States have not had time to look in detail at the amended proposal as submitted by the Commission on 31 May. It has therefore not been possible to arrive at final conclusions today.

? The main point under discussion was the opt-out. There are two extreme positions: on the one hand those Member States which are calling for freedom of choice, stressing the need for economic growth and hence asking for the opt-out, and on the other those which feel that extending the reference period for calculating weekly working time to one year gives enough flexibility to make it possible to envisage a definite end to the opt-out. Between these positions there are many variations. The delegations have also expressed their willingness to find a viable compromise, in view of the urgency of finding a Community solution to the question of how to treat inactive periods of on-call time, following the Court of Justice judgments in the SIMAP and JAEGER Cases.

? The President noted that a solution acceptable to both the Council and the Parliament might depend, inter alia, on further consideration of two types of problem: firstly, problems in the health sector and secondly problems arising from the fact that in many Member States employees had several work contracts simultaneously.

? The President took note of the Commission's willingness to take account of these two aspects by However, many delegations expressed doubts about the absence of objective criteria for extending the time limit and stressed the need to take a decision which would respect Member States' interests. The President also noted that the Commission was willing to look for a compromise.

? In view of the problem of lack of time coupled with the political will to continue the debate, the Council instructed Coreper to monitor the discussions and inform the Council accordingly.