Organisation of working time. Codification

2002/0131(COD) - 21/12/2010 - Follow-up document

This Commission Staff Working Paper reviews the transposition and application by Member States of Council Directive 2003/88/EC (the 'Working Time Directive'). It is attached to the Commission's report on implementation of the Working Time Directive (COM(2010)0802).

The aim of the Working Paper is to provide a general overview of the way in which Member States have implemented the Working Time Directive.

In their implementation reports, 16 Member States considered that transposing the Directive had produced a positive overall impact; by providing a higher level of protection for workers, by making national law simpler and more effective, or by extending legal protection to previously excluded groups.

However, 11 Member States considered that the acquis on on-call time and immediate compensatory rest had, or would have, a significant negative impact, by creating practical difficulties for the organisation of working time, particularly in 24-hour services, such as health care or fire-fighting. 14 Member States called for changes to the Directive as an urgent priority regarding on-call time, more flexible reference periods or the timing of compensatory rest.

Trade unions underlined the Directive’s importance for European social policy, and the continuing need for common minimum standards in this area at European level. Protection against excessive working hours should not be reduced; derogations should be tightened up, the opt-out should be phased out, protective conditions more strictly applied and overall enforcement improved.

Employers at European level saw working time as a key element for flexibility and competitiveness. But they generally saw the Directive as going beyond what was needed to protect workers’ health and safety. They called for greater simplicity and flexibility in national transposition and for changes to the Directive as an urgent priority to allow longer reference periods, and regarding on-call time and the timing of compensatory rest.

National reports from 11 Member States, and the report by European-level trade unions, expressed strong concerns about the effectiveness of monitoring and enforcement of the Directive at national level, particularly in specific sectors. The most frequently mentioned issues were:

- excess working time and missed minimum rests in public hospitals, particularly regarding on-call time by doctors;
- employers who did not observe working time limits, reference periods or minimum daily rests or did not keep proper records of excess working time;
- national rules which transposed the Directive in an unclear or impractical way;
- unclear scope of the derogation at Article 17.1 ('autonomous workers');
- employers who did not provide annual leave entitlements within the year.

Employers’ organisations generally considered enforcement and monitoring to be satisfactory. In certain Member States, they felt that monitoring imposed excessive regulatory burdens on SMEs and on compliant undertakings.