Organisation of working time. Codification

2002/0131(COD) - 26/04/2017 - Follow-up document

This report concerns the implementation by Member States of Directive 2003/88/EC concerning certain aspects of the organisation of working time, as required by Article 24 of the Directive.

Objectives of the report: the report recalls the objectives and main provisions of the Directive and sets out **the Commission's main findings regarding its implementation by the Member States**. It intends to provide an overview of how the Member States have implemented the Directive and highlighted major difficulties and problems.

The Commission also presents an interpretative communication [C (2017) 2601] to provide legal clarity and certainty to Member States and other parties concerned when implementing the Working Time Directive and thus improving its effective implementation. The common objective of the report and the interpretative communication is to improve the application of the Directive in line with the strategic framework outlined in the Commission's recent Communication "EU law: better results through better application".

However, it cannot provide a comprehensive record of all national enforcement measures and does not prejudge the Commission's position in future legal proceedings.

Key findings: overall, the vast majority of EU workers are subject to working time rules that **comply with EU legislation**. In many cases, **national rules provide greater protection than is required by the Directive**. For example, an assessment by the Member States shows that the 15% reduction in the number of workers working more than 48 hours per week between 1997 and 2013 is seen as part of the wider international trend to reduce working hours.

The conformity of the laws of the Member States with the requirements of the Directive is **improving**. For example, many countries have amended their legislation on **annual leave**, particularly with regard to the carrying forward or postponement of annual leave for persons on sick leave, maternity leave or parental leave.

Several countries have also amended their legislation on **maximum working time** for specific groups of workers.

The analysis carried out by the Commission in 2010 showed that a large number of Member States had introduced the derogation allowing workers to opt for the maximum working time limit not to be applied to them. Since then, the situation has remained stable, with Croatia and Austria being the only other Member States to have introduced the derogation.

Problems in transposing the text into national law: the current report also shows that there are still problems in the application of important aspects of the Directive, as interpreted by the Court of Justice.

Incorrect transposition of the requirement to provide **compensatory rest** when minimal rest periods are shortened or postponed is clearly the most widespread problem.

The report also identifies other, less common, problems.

These concern

- **treatment of on-call time as working time**,

- **limitations on maximum working time for specific groups of workers** (mainly health workers and the armed forces) and

- **limitations on working hours for night workers**.

In addition, there are problems in several Member States with regard to **the rules for acquiring or taking paid annual leave during the first year of employment** and **a worker's right to keep the acquired leave rights for a sufficiently long period when annual leave coincides with sick leave**.

The Commission will examine the positions resulting from national legislation or practice in accordance with the communication entitled 'EU law: better results through better application'. It will continue to support Member States' efforts to improve their implementation and is ready to facilitate exchanges between Member States and between the social partners, where these can be useful.