

Revision of Directive 93/104/EEC on the organisation of working time

2003/2165(INI) - 11/02/2004 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution drafted by Alejandro CERCAS (PES, Spain) on the organisation of working time. The report was adopted by 370 in favour to 116 against with 21 abstentions. On the particular point of the opt-out, the vote was close, with those in favour of removing the option for employees to waive their rights succeeding by 275 votes to 229 with 9 abstentions. However, Parliament voted by a large majority (311 versus 89 with 118 abstentions) against a call for the UK to be taken to the Court of Justice for failing to tackle alleged abuse of the directive. Parliament deplored the fact that the Commission has submitted the required assessment report after the seven-year deadline for review laid down in Directive 93/104/EC and that the report does not set out clear options for resolving the problems identified. The Commission should consider an amended directive as soon as possible. Parliament highlighted the specific importance of addressing the problems relating to availability and financing in the health sector arising from the Court of Justice's interpretation of the concept of working time in the SIMAP and Jaeger cases, but deplored the fact that the Commission did not manage to carry out, in the three years after the SIMAP ruling, an in-depth study on the consequences of these judgments for the Member States or to find transitional remedies. The Commission is asked to draw up a study as to what effects derogations on maximum working time (Article 6 of Directive 93/103/EC) have on the health and safety of workers. Any initiative in this field should be based on the premise that the health and safety of workers must take precedence but should be looked at alongside the reconciliation of family and professional life and any considerations of an economic nature. Parliament also stated that it looked to the Commission to refrain from taking any initiatives serving to 'renationalise' the European Working Time Directive. Turning to the individual opt-out, Parliament called for this to be revised, with a view to phasing-out, as soon as possible. In the meantime, the Commission must identify practical ways of tackling potential or actual abuses of the opt-out provision including seeking views on how best to strengthen the voluntary nature of the opt-out. Parliament went on to call on the Member States to await a revised version of the directive and not to make excessive use of the derogation provided for in Article 18. It should not be misused to cater for the apparent problems caused by the Court of Justice's interpretation of working time for on-call stand-by hours at the workplace in the health-care and other sectors. Member States need to look for alternative solutions within the scope of the directive. These solutions should provide for other flexibility options that do not completely do away with any limitation on working hours and continue to provide for adequate protection. The Commission and Member States are urged to promote an exchange of information about good practice within already existing models. Parliament asked the Commission to produce an additional communication containing a specific and reasoned statement of its attitude regarding all the provisions of the directive that may need to be revised, to examine solutions to re-establish in the framework of a revision of the directive clear obligations on employers properly to measure working time, and to submit its views to Parliament for consultation as soon as possible.