

Organisation of working time

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Following its earlier debate in December 2005, the Council again held lengthy and extensive discussions on a modified proposal for Directive of the European Parliament and of the Council aimed at amending Directive 2003/88/EC concerning certain aspects of the organisation of working time, on the basis of compromise texts tabled by the Presidency concerning the controversial issue of the opt-out.

All delegations and the Commission welcomed the Presidency's determination to achieve an overall agreement in view of the need for a common solution to the challenges resulting from the Simap-Jaeger judgements.

However, in spite of the progress made in identifying possible elements for an agreement, and given the differences in the labour market situations and in Member States' views on the possible need and conditions for maintaining the opt-out, it was not possible to reach overall political agreement at this stage.

To recall, the objectives of the Commission amended proposal are twofold:

- 1) to take into account the European Court of Justice's case law, in particular rulings in the SIMAP and Jaeger cases, which held that on-call duty performed by a doctor when he is required to be physically present in the hospital must be regarded as working time;
- 2) to review some of the provisions of Directive 2003/88/EC concerning the possibility of not applying the maximum weekly working time (48 hours) if the worker gives his agreement to carry out such work (the "opt-out" provision).

The key issues still to be resolved relate to **the opt-out provision** as well as to the question of whether the **maximum weekly working time** is **calculated per contract or per worker**.