Basic information

2002/0131(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Organisation of working time. Codification **Subject** 4.15.03 Arrangement of working time, work schedules	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs and Internal Market	GARGANI Giuseppe (PPE-DE)	03/12/2002

Committee for opinion	Rapporteur for opinion	Appointed
EMPL Employment and Social Affairs	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Competitiveness (Internal Market, Industry, Research and Space)	2525	2003-09-22

European Commission

Commission DG	Commissioner
Legal Service	

Key events

Date	Event	Reference	Summary
24/06/2002	Legislative proposal published	COM(2002)0336	Summary
01/07/2002	Committee referral announced in Parliament, 1st reading		
03/12/2002	Vote in committee, 1st reading		Summary
03/12/2002	Committee report tabled for plenary, 1st reading	A5-0426/2002	
17/12/2002	Decision by Parliament, 1st reading	T5-0595/2002	Summary
22/09/2003	Act adopted by Council after Parliament's 1st reading		
04/11/2003	Final act signed		

04/11/2003	End of procedure in Parliament		
18/11/2003	Final act published in Official Journal		

Technical information

Procedure reference	2002/0131(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Codification
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 137-p2 Rules of Procedure EP 52-p1
Stage reached in procedure	Procedure completed

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0426/2002	03/12/2002	
Text adopted by Parliament, 1st reading/single reading		T5-0595/2002 OJ C 031 05.02.2004, p. 0026-0079 E	17/12/2002	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2002)0336	24/06/2002	Summary
Follow-up document	COM(2006)0371	07/07/2006	Summary
Follow-up document	COM(2006)0853	22/12/2006	Summary
Follow-up document	C(2009)7380	28/09/2009	
Follow-up document	C(2009)7381	28/09/2009	
Follow-up document	C(2009)7385	28/09/2009	
Follow-up document	COM(2010)0802	21/12/2010	Summary
Follow-up document	SEC(2010)1611	21/12/2010	Summary
Follow-up document	COM(2011)0306	31/05/2011	Summary
Follow-up document	COM(2017)0254	26/04/2017	Summary

Follow-up document	SWD(2017)0204	27/04/2017	
Follow-up document	COM(2023)0072	15/03/2023	
Follow-up document	SWD(2023)0040	15/03/2023	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1026/2002 OJ C 061 14.03.2003, p. 0123	18/09/2002	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 2003/0088
OJ L 299 18.11.2003, p. 0009-0019 Summary

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.

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.

Organisation of working time. Codification

2002/0131(COD) - 04/11/2003 - Final act

PURPOSE : to codify legislation on the organisation of working time. LEGISLATIVE ACT : Directive 2003/88/EC of the European Parliament and of the Council concerning certain aspects of the organisation of working time. CONTENT : for the sake of clarity and transparency of Community law, this Directive codifies Council Directive 93/104/EC, which has been substantially amended since its adoption by Directive 2003/34/EC of the European Parliament and of the Council. The new Directive 2003/88/EC will supersede the various directives incorporated in it; their content is fully preserved, and they are brought together with only such formal amendments as are required by the codification exercise itself. ENTRY INTO FORCE : 2 August 2004.

Organisation of working time. Codification

2002/0131(COD) - 22/12/2006 - Follow-up document

This report from the Commission examines the operation of the provisions of Directive 2003/88/EC (the Working Time Directive) applicable to offshore workers, as required by Article 20(3) of the Directive. To recall, following the adoption of 2000/34/EC amending Directive 93/104/EC, Community law on the organisation of working time is now applicable to offshore workers. Member States were required to transpose the provisions of Directive 2000 /34/EC into their national legislation by 1 August 2003 at the latest. In 2003, the above two Directives were codified and repealed by Directive 2003/88 /EC ("the Directive"), which is currently the only text in force. Offshore work concerns only a few Member States and an estimated 30 000 or so workers. A single Member State – the United Kingdom – employs the vast majority (25 000) of offshore workers.

The applicable provisions: the Directive stipulates that derogations may be made from Articles 3 (daily rest), 4 (breaks), 5 (weekly rest period), 8 (length of night work) and 16 (reference periods), provided that the workers concerned are afforded equivalent compensatory rest periods. Member States may derogate from Article 19, and lay down a reference period of not more than twelve months for calculating the maximum weekly working hours.

Certain offshore work as defined in the Directive is performed from vessels or platforms in international waters. In such cases the question may arise as to what law is applicable to the contracts of employment. The report discusses the applicable provisions of the Rome Convention of 1980 which lays down the principle of freedom of choice by the parties concerned in situations where there is a conflict of laws.

Offshore work in the EU: most of the Member States – Austria, Belgium, Cyprus, the Czech Republic, Denmark, Greece, Estonia, Finland, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Portugal, Slovakia, Slovenia and Sweden – have no offshore work on their territory, including in their territorial waters. All these countries, with the exception of Denmark and Portugal, also state that no national companies are performing offshore work outside their territorial waters. In the Member States that have offshore work on their territory or national companies performing offshore work outside their territory, the situation and number of the workers concerned vary considerably. The United Kingdom is clearly in the lead in terms of the number of workers it employs in offshore work.

Use of derogations: the Commission’s report examines the extent to which individual Member States with offshore work on their territory have made use of their right to derogate from these provisions. The majority of Member States have not made use of the option to derogate and offshore workers are therefore covered by national legislation on daily or weekly rest periods, breaks and night work. The United Kingdom is the only Member State to have made full use of the scope for derogations for offshore workers.

Collective agreements: working time is traditionally covered by any collective agreements that exist. Given that the Directive lays down minimum requirements, collective agreements generally lay down rules that are more favourable for the workers, particularly as regard maximum weekly working hours.

Collective agreements may also play an important part in implementing the derogations provided for in the Directive as regards daily and weekly rest periods, breaks, night work and the reference periods (if the Member State in question has not laid down a reference period of one year by law).

The rate of coverage by collective agreements in the offshore sector varies widely. For example, there would appear to be no collective agreements in Poland or Ireland. In the United Kingdom, collective agreements have been signed as from 1999, but they apply only to workers who are members of the trade unions that signed them and trade-union membership is fairly low (around 4 500 workers). In the

Netherlands, offshore workers are essentially employed by a company that is not covered by any collective agreement, while the collective agreements that exist in Denmark and Spain apply to a large proportion of workers since the rate of coverage by collective agreements is fairly high in those two countries (more than 80%). In Germany, the workers on the single platform that exists are covered by a

company collective agreement applicable to the regular staff on the platform, and a company-level agreement on working hours.

The average weekly working time of Danish offshore workers covered by a collective agreement is around 33 hours (rather than the 48 provided for in the Directive). In Spain, the collective agreement of the company Repsol lays down more favourable conditions as regards rest time (daily, weekly, annual). In Germany, the collective agreement provides for not more than 40 hours of work per week.

Accordingly, it would also appear that collective agreements, where they exist, provide for more favourable arrangements than the minimum requirements laid down in the Directive, particularly as regards maximum weekly working hours and annual paid leave.

Conclusion: the flexibility of the provisions of the Directive as regards offshore workers probably explains why the Member States are fairly unanimous that they are adequate for the sector in question and should not therefore be amended. Employers and employees, on the other hand, have not voiced their opinions following the consultation launched by the Commission.

Given the views expressed by the Member States concerned and the absence of comments by employers and employees, the Commission considers that no changes need to be made to the rules on the organisation of working time for offshore workers.

Organisation of working time. Codification

2002/0131(COD) - 24/06/2002 - Legislative proposal

PURPOSE : Codification of legislation on the organisation of working time. CONTENT : On 1 April 1987, the Commission decided that all legislative measures should be codified after no more than ten amendments, for the sake of clarity and transparency of Community law. Given that no changes of substance may be made to the instruments affected by official codification, Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast track adoption of codification instruments. The purpose of this proposal for official Codification of Council Directive 93/104/EC is to undertake official codification of this type. The new directive will supersede the various directive incorporated in it; their content is fully preserved, and they are brought together with only such formal amendments as are required by the codification exercise itself.

Organisation of working time. Codification

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

In accordance with the provisions of Directive 2003/88/EC, this report reviews the implementation by Member States of the Working Time Directive 2003/88/EC. It recalls the Directive's objectives and main provisions and sets out the principal results of the Commission's examination of implementation by Member States, backed by the annexed Working Paper of the Commission services, where the results of the examination are developed in greater detail. The aim of the Report is to provide an overview of how Member States have implemented the Directive and to highlight the key problems.

The Commission acknowledges the considerable efforts that have been made in many Member States to achieve transposition or to improve compliance following decisions of the Court of Justice or national courts, or notifications by the Commission. In general terms, the large majority of employees in the EU work under working time rules that respect EU legislation. In many cases, national rules afford greater protection than what is required under the Directive.

Opt-out: however, the Commission's analysis shows that a large number of Member States have introduced the use of the **'opt-out'** since 2000, with eleven doing so, in order to manage their **current difficulties regarding on-call time and compensatory rest in 24-hour services.** The report notes that the picture regarding use of the opt-out has changed considerably over recent years. In 2000, the UK was the only Member State to make use of the opt-out. 16 Member States now do so, including one which is currently legislating to introduce it. 11 Member States indicate that they have not allowed the use of the opt-out in their transposing legislation: they are Austria, Denmark, Finland, Greece, Ireland, Italy, Lithuania, Luxembourg, Portugal, Romania and Sweden.

It is important to note that the use of the opt-out varies considerably. Five Member States (Bulgaria, Cyprus, Estonia, Malta, and the UK) allow its use, irrespective of sector. 11 allow a more limited use of the opt-out, restricted to specific sectors or to jobs which make extensive use of on-call time.

There is also **wide variation in the protective conditions attached to the opt-out**. For example, some Member States specify limits to average weekly hours of opted-out workers (ranging from 51 hours in Spain, to 72 hours including on-call time in Hungary), while seven Member States have no explicit limit for these workers. Two Member States (Germany and the Netherlands) require a collective agreement, as well as the consent of the individual worker, for an opt-out to be valid. Only three Member States (Germany, Latvia and Malta) mention a clear obligation for the employer to record working hours of opted-out workers, and only two (Czech Republic and Slovakia) mention an obligation for the employer to notify the labour inspectorate when the opt-out is used. In addition, Germany requires specific measures to take account of health and safety, and the Netherlands requires the social partners to consider first whether the need for an opt-out could be avoided by organising the work differently.

The opt-out has been introduced very recently in many Member States. However, the Commission is unable to fully evaluate its operation in practice, since **Member States' reports do not provide adequate information about the number of hours actually worked by opted-out workers**, and over what period of time. Most Member States do not seem to provide for any monitoring or recording of working time of opted-out workers. This situation deprives policymakers of the basic information needed to examine how far opted-out employees (as well as co-workers or clients) may be exposed to risks caused by excessive working time.

There is also cause for concern that, in some Member States, the health and safety objectives of the Directive may not be respected, and the requirement of the worker's advance voluntary consent to opt out may not be properly applied.

On call time: it is clear that there is a significant number of Member States where on-call time at the workplace is still not fully treated as working time in accordance with the Court’s decisions. In some cases, there is no requirement to treat ‘active’ on-call time as working time; in others ‘inactive’ on-call time at the workplace is, as a general rule, not fully counted as working time by the applicable national law or collective agreements.

Interpretation of core elements: the analysis also shows that there remain problems with the implementation of core elements of the Directive, as interpreted by the Court of Justice, such as:

- the definition of working time (including 'on-call' time), and the rules on equivalent compensatory rest (where minimum rest periods are postponed), particularly in services operating on a 24 hour/ 7 day basis;
- the situation of workers with multiple contracts;
- the situation of specific groups of workers (particularly in public defence and security services; and so-called 'autonomous workers');
- the lack of proper monitoring or enforcement of the conditions attached to the opt-out, in many of the Member States who allow its use.

The Commission will :

- assess the Directive's overall impact on workers' health and safety against the background of evolving work patterns and models of work organisation;
- clarify the interpretation of some rules, taking into account the jurisprudence, the experience of Member States in its application, and the opinions of the social partners;
- address the position arising under national laws or practices, with particular attention to those which result in workers being obliged to work excessive hours or to work without adequate rest.

The Commission 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 helpful.

The Commission launched a review of the Directive in March 2010, based on consultation of the social partners at European level. It has also launched a detailed study of the economic and social impact of the Directive, which will complement the impact assessment provided by this Report. The Commission is adopting, simultaneously with this Report, a Communication launching the second phase consultation of the social partners under the TFEU.

Organisation of working time. Codification

2002/0131(COD) - 07/07/2006 - Follow-up document

Directive 2003/88/EC lays down minimum safety and health requirements for the organisation of working time of workers, covering periods of daily rest, breaks, weekly rest, maximum weekly working time, annual leave and aspects of night work, shift work and patterns of work. The Directive applies to all sectors of activity except where other Community instruments contain more specific requirements on the organisation of working time for particular occupations or occupational activities. There are currently four such instruments, of which one, Directive 2002/15/EC, is relevant to this report. The latter applies to carriage by road, but excludes vehicles used for the carriage of passengers on regular services where the route covered by the service in question does not exceed 50 kilometres. Whenever the route exceeds 50 kilometres, Directive 2002/15/EC is applicable. Given the regulatory differences, it is important that workers are covered by the right or, in any case, by the most protective provisions.

This report by the Commission follows the requirement in Article 26 of the Directive to review the operation of the provisions with regard to workers concerned with the carriage of passengers on regular urban transport service, with a view to presenting, if need be, the appropriate modifications to ensure a coherent and suitable approach in the sector. In order to comply with this obligation, the Commission prepared a questionnaire for completion by Member States and social partners. This report summarises the replies received and presents some conclusions concerning the suitability of the Directive's provisions for the urban transport sector.

The Commission gives an overview of the national reports of Member States and social partners. The regular urban transport sector is regulated at the national and/or regional level, by rules and structures that differ across Member States. In many countries, different legislation and/or collective agreements apply, depending on whether transport is by road or by rail. In general, the level of protection granted to urban transport workers is higher than the minimum requirements under the Directive.

In most of the Member States regular urban transport workers are covered by collective agreements, whose scope differs from country to country. These agreements generally cover all aspects of worker-employer relations. Collective agreements apply at national, regional and/or company level, depending on the Member State.

In several Member States, the Directive is implemented by several national legislative measures. Where this is the case, often there is separate national legislation for bus drivers. In addition, some Member States extend the provisions of Regulation 3820/85/EEC to bus drivers in regular urban passenger transport. Nevertheless, at this stage it is not clear whether all provisions of Directive 2002/15/EC are applied.

In cases where urban and regional transport are provided by the same company, it is not always clear whether Regulation 3820/85/EEC and Directive 2002/15/EC apply to workers whose route is longer than 50 kilometres. The non application of these legal texts to workers covered by their scope is a violation of Community law, since these specific legal instruments are more protective than the Directive.

In some cases, the provisions of Regulation 3820/85/EEC and Directive 2002/15/EC seem to be combined with the broader possibilities of derogation permitted by the Directive. In addition, some Member States' legislation permits a 12-month reference period for calculating average maximum weekly working time, in contradiction with the Directive.

Five Member States reported having implemented the individual opt-out (Estonia, Germany, Hungary, Malta and United Kingdom). However, all of them applied it broadly, rather than to the urban transport sector specifically.

Neither trade unions nor employers' representatives have requested a review of the provisions currently applicable to this sector. Trade unions underline difficulties in enforcing the provisions, because they consider the applicable sanctions to be ineffective. In their view, progress should be made on this issue, in order to avoid risks to the development of this sector.

In conclusion, the provisions of the Directive appear to be suitable for the urban transport sector and no major problems have been identified. Only one Member State (Latvia) has pointed out difficulties in complying with the rules of the Directive, specifically as concerns maximum weekly working time.

The Commission does not consider that any change is needed to the rules regarding organisation of working time for workers concerned with the carriage of passengers on regular urban transport services. The Commission will investigate the above mentioned situations where there are indications of difficulties in compliance with Community law, and in particular with the Directive and will take its responsibilities in accordance with the Treaty.

Organisation of working time. Codification

2002/0131(COD) - 31/05/2011 - Follow-up document

This Communication reviews the operation of Article 21 of Directive 2003/88/EC concerning certain aspects of the organisation of working time concerning **workers on board seagoing fishing vessels** flying the flag of a Member State ('SFVs'). The Directive is construed in a restrictive way, meaning that only those provisions concerning exclusively workers on board SFVs (and not any other workers) are analysed.

Article 21 of the Directive excludes workers on board SFVs from the scope of the general provisions of the Directive governing daily rest, breaks, weekly rest periods, maximum weekly working time and the length of night work. It lays down specific rules applicable to such workers regarding:

- entitlement to adequate rest and limitation of the maximum working time, including specific limits of maximum working time and minimum rest;
- entitlement to an uninterrupted rest not split into more than two periods, with a maximum interval between two consecutive periods of rest;
- the possibility of allowing, under certain circumstances, exceptions to the limits set in the Directive;
- work necessary for the immediate safety of the vessel or giving assistance to vessels or persons at distress at sea;
- the option to synchronise annual leave entitlement with the period during which fishing vessels are not allowed to operate.

The Commission carried out an examination based on the responses of the Member States and the social partners at European level to a questionnaire prepared for this purpose, as well as independent expert reports.

General assessment: Member States and the social partners consulted by the Commission were requested to give their overall assessment of Article 21 of the Directive, stating in particular whether its provisions remain appropriate, in particular as far as health and safety are concerned.

The main conclusions are as follows:

- special provisions concerning workers on board SFVs contained in Article 21 of the Directive should continue to apply. The article was considered to be appropriate by 12 Member States and the social partners were strongly in favour of maintaining a specific regulation concerning workers on board SFVs. However, the social partners stated that the clear limitations laid down in Article 21 of the current Directive concerning workers on board fishing vessels must be considered adequate';
- although not all Member States stated their position, nine indicated that they considered the current personal scope of application of the Directive to be adequate. Some Member States raised doubts as to whether the criterion of maximum working time was adequate, in view of the particular work patterns in the fishing industry and the difficulty of control and enforcement. **The difficulty in determining precisely the actual working hours on board** is considered to be the most frequent inspection problem. Moreover, the inspection is usually carried out in ports only. According to some Member States, monitoring rest periods is less difficult to carry out in practice;
- compliance with the uninterrupted six hours of breaks poses practical problems in some Member States. It is generally accepted that Article 8 concerning the length of night work should not apply to workers on SFVs. Specific legislation covering the length of night work of workers on board SFVs was not considered warranted either;
- the scope for granting exclusions from the general working time patterns set for workers on SFVs was considered a necessary mechanism of flexibility.

Conclusions: with full respect for the autonomy of the social partners, the Commission will continue to follow the negotiation process concerning incorporation of aspects of ILO Convention 188 concerning Work in the Fishing Sector (ILO 188) into EU law via a social partners' agreement in order to identify, in close cooperation with the social partners, any potential areas in which EU action is necessary or warranted. It will tie in any such action with the current revision of the Directive.

As a result of the consultation, the Commission has identified a number of areas requiring further attention. These are:

- **the situation of the self-employed**, who usually work on small vessels and are frequently share-fishermen, deserves a special focus, particularly in the context of ratification and implementation of ILO 188 by the Member States.
- the information provided by Member States is not sufficient to ascertain whether the **reference period not exceeding 12 months** referred to in Article 21 is always provided and respected;
- **ILO 188** only refers to minimum rest as a criterion to limit working time, while the Directive allows for alternative use of either minimum rest or maximum working time. Therefore Member States could either implement the minimum rest criterion alone or both maximum working time and minimum rest in order to comply with both instruments. This solution is compatible with this Directive, as long as any provisions of the latter which are more favourable for the workers are respected. The right to uninterrupted periods of rest is particularly important (as no similar provision exists in ILO 188) and should be respected;
- special attention should be paid to the **medical supervision of seafarers** working during night periods. A number of Member States decided to apply their general legislation concerning night work to workers on board SFVs, even though some Member States have specific legislation regulating other aspects of working time on board SFVs. Other Member States stated that there was no indication of any adverse effects of

the current lack of regulation regarding the length of night work on the health and safety of workers. Some fishing methods require operation during night time. Poland stated that stricter provisions on night work on board SFVs would be strongly opposed by the workers themselves. France underlined that it would be justified to focus on the medical supervision of fishermen called upon to work at night;

- in one case (Spain) the **exception from working time rules is not justified** under any of the circumstances listed in Article 21.5. Exceptions should be proportional to the circumstances justifying them and should not cover the whole scope of the provision. The Commission will pay particular attention to verifying that the use of exceptions granted under Article 21.5 of the Directive respects these principles.
- in a broader context, the Commission notes that the prime objective of the Community strategy 2007-2012 on health and safety at work, supported by the Council Resolution of 25 June 2007 remains the continued improvement of working conditions, notably through a sizeable reduction in work accidents and occupational diseases. In order to achieve this goal, the correct and effective implementation of EU health and safety legislation must be reinforced while supporting SMEs, particularly in 'high-risk' sectors, such as construction, agriculture, fishing and transport. For this purpose, the Commission, through the new PROGRESS programme and in cooperation with the Advisory Committee, is currently preparing non-binding practical guides on the correct application of the Directives, particularly in the fisheries sector (for vessels less than 15 metres in length).

Organisation of working time. Codification

2002/0131(COD) - 17/12/2002 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution based on the report by Giuseppe GARGANI (EPP-ED, Italy) and approved the Commission's proposal without amendment.