

Basic information	
2003/2165(INI) INI - Own-initiative procedure	Procedure completed
Revision of Directive 93/104/EEC on the organisation of working time Subject 4.15.03 Arrangement of working time, work schedules	

Key players				
European Parliament	Committee responsible		Rapporteur	Appointed
	EMPL Employment and Social Affairs		CERCAS Alejandro (PSE)	11/06/2003
	Committee for opinion		Rapporteur for opinion	Appointed
	FEMM Women's Rights and Equal Opportunities		EVANS Jill (V/ALE)	21/08/2003

Key events			
Date	Event	Reference	Summary
04/09/2003	Committee referral announced in Parliament		
22/01/2004	Vote in committee		Summary
22/01/2004	Committee report tabled for plenary	A5-0026/2004	
09/02/2004	Debate in Parliament		
11/02/2004	Decision by Parliament	T5-0089/2004	Summary
11/02/2004	End of procedure in Parliament		

Technical information	
Procedure reference	2003/2165(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	EMPL/5/20002

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, single reading		A5-0026/2004	22/01/2004	
Text adopted by Parliament, single reading		T5-0089/2004 OJ C 097 22.04.2004, p. 0138-0566 E	11/02/2004	Summary

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	COM(2003)0843 	30/12/2003	Summary

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

2003/2165(INI) - 30/12/2003 - Document attached to the procedure

PURPOSE : to present a report on the application of Directive 93/104/EC on the certain aspects of the organisation of working time and the possible re-exam of the Directive. **CONTENT** : Directive 93/104/EC of 23 November 1993 lays down minimum requirements with regard to the organisation of working time, with the aim of ensuring a better level of safety and health protection for workers. In order to ensure the protection of workers against harmful effects for their health and safety resulting from working excessive hours, insufficient rest or irregular organisation of work, the Directive lays down in particular: - a minimum rest period of 11 consecutive hours for each 24-hour period; - a rest break where the working day is longer than six hours; - a minimum rest period of one day per week; - maximum weekly working hours of 48 hours on average, including overtime; - four weeks of paid annual leave; - an average of no more than eight hours of work at night in any 24-hour period. The Member States were required to transpose the Directive by 23 November 1996 at the latest. Transposal has been concluded in all the Member States. Further information on the transposal of the Directive may be obtained by consulting the report published in 2000. The scope of Directive 93/104/EC excluded air, rail, road, sea, inland waterway and lake transport, sea fishing, other work at sea and doctors in training. On 22 June 2000, the European Parliament and the Council adopted Directive 2000/34/EC amending Council Directive 93/104/EC concerning certain aspects of the organisation of working time to cover sectors and activities excluded from that Directive. Directive 2000/34/EC was to be transposed by the Member States by 1 August 2003 (1 August 2004 with regard to doctors in training). The aim of this communication is to analyse the application of the Directive 93/104/EC as amended by Directive 2000/34/EC and more specifically two provisions which allow for their review prior to the expiry of a seven-year period reckoned from the deadline for transposal by the Member States, i.e. prior to 23 November 2003. These provisions concern the derogations from the reference period for the application of Article 6 (maximum working week) and the option of not applying Article 6 if the worker agrees to carry out such work (generally known, and hereinafter referred to as, opt-out). The aim of this communication is therefore threefold: 1) it aims to evaluate the application of the two provisions subject to review; 2) it aims to analyse the impact of the case law of the Court concerning the definition of working time and the qualification of time on call, as well as new developments aimed at improving compatibility between working and family life; 3) it aims to consult the European Parliament and the Council, but also the European Economic and Social Committee, the Committee of the Regions and the social partners, on a possible revision of the text. The report focuses on the directive's current opt-outs (the use of Article 18(1)(B)(I)), which allow individuals to waive their working time rights, and the definition and calculation of working time. Recent European Court of Justice rulings have led to more Member States turning to use of the opt-out. It has to be noted that the main characteristics of the system governing working time in the United Kingdom have remained unchanged despite the entry into force of the Directive, mainly as a result of using the opt-out. According to available figures, approximately 4 million people, or 16% of the workforce, currently work more than 48 hours per week, although there were only 3.3 million (or 15%) at the beginning of the 1990s. It also appears that the number of people working over 55 hours per week has increased, and now stands at 1.5 million. In fact, the United Kingdom is the only Member State where weekly working time has increased over the last decade. France, Germany, Netherlands, Spain and Luxembourg are preparing or have passed legislation to make restricted use of the opt-out, in certain sectors. The Commission's report finds that not all the guarantees laid down within the Directive are being provided. It is concerned, for example, that workers are frequently asked to sign the opt-out agreement at the same time as signing their employment contract, which acts a constraint to freedom of choice. The communication lays down the criteria which the Commission feels must be met: first and foremost, the approved approach should: - give workers a high level of health and safety protection in respect of working time; - give firms and Member States more flexibility in the way they manage working time; - make it easier to reconcile work and family life; - avoid imposing unreasonable constraints on firms, particularly small and medium-sized businesses. The Commission would like the addressees of this communication to express their opinion on the need to revise the current text or introduce other initiatives, not necessarily legislative. Five main issues emerge which need to be addressed: - the first refers to the reference periods; - the second relates to the Court of Justice's interpretation of the concept of working time in the SIMAP and JAEGER cases; - the third concerns the conditions of application of article 18.1 b) i) (opt out); - the fourth, covers measures aiming at improving the reconciliation between work and family life; - the fifth whether an interrelated approach to these issues would allow for a balanced solution capable of meeting the criteria set above. The deadline for responses to the consultation is 31 March 2004.

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.