



WORKING TIME DIRECTIVE

KEY MESSAGES

- 1** Working time flexibility is crucial for companies and workers
- 2** Working time arrangements have become increasingly diversified across the EU
- 3** On-call time should not be considered as working time. Possibilities for individual workers to opt out must be preserved.

BACKGROUND

On 24 March 2010, the European Commission launched the first-stage consultation of the European social partners on a review of the Working Time Directive. This follows five years of discussions, which culminated in the Council and the European Parliament failing to reach an agreement on the revision of the directive in 2009. The original directive had to be revised ten years after its adoption in 1993 and the two key issues at stake were: the individual opt-out (or the possibility to derogate from the 48-hour limit to the average working week) and the definition of on-call time. Since no agreement was found, the original directive is still in force.

The European social partner consultation allows an in-depth analysis of the current rules, taking into account the changes in the world of work since the directive was adopted in 1993.

Flexibility is crucial for companies. They have to be able to organise working time according to the nature of their activity, the production cycle and customer demands. They also need to adapt to workers' individual needs. Rules at EU level should not hamper flexibility and should avoid placing an obstacle in the way of economic growth and job creation. Individual workers should have the opportunity to work more than 48 hours a week, through the opt-out, if they wish to do so. They should not be constrained by overly strict EU legislation.

A number of rulings by the European Court of Justice (including Simap and Jaeger) concluded that time spent on call had to be counted as working time if a person is required to be at their place of employment, even if they are resting. The rulings raise serious legal, financial and HR problems for those activities which make use of workers on on-call time in the public sector, but also private sector companies (IT, security services in chemical plants, private security and care services, etc.)

WHAT DOES BUSINESSEUROPE AIM FOR?

- The legal uncertainty following the ECJ rulings on on-call time issue must be brought to an end.
- The revision of the Working Time Directive should not lead to tighter rules at EU level that hamper the flexibility companies and workers need.
- Working time is a cross-sectoral issue, therefore a revision should not focus on one sector. This would also not fit with the comprehensive approach proposed by the Commission.

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