

# Working for **Better Times**



EUROPEAN TRADE UNION CONFEDERATION (ETUC)

# Working for **Better Times**

WORKING TIME REGULATION AND INNOVATION IN THE 21<sup>ST</sup> CENTURY

Report of ETUC Conference

**Final report**

By Dr Jane Pillinger

2010

# Contents

## WORKING TIME REGULATION AND INNOVATION IN THE 21<sup>ST</sup> CENTURY

1. Introduction and background to the conference : working for Better Times .....	3
2. Working time in Europe : a fundamental right .....	5
3. Trends in working time .....	7
4. Working time and the economic crisis .....	11
5. Working time: health and safety .....	14
6. Innovative solutions to working time through flexible working time .....	23
7. The case for a strong and modern working time directive (wtd) .....	34
8. Conclusion .....	49
References .....	50



## Introduction and background to the conference : Working for Better Times

Decent working time has been a core trade union demand for the last century and is a fundamental right. In January 2011 the ETUC held a conference on working time 'Working for Better Times' to disseminate good practice on working time and also to initiate the second working time award. The conference was planned by the ETUC with the European Trade Union Federations (ETUF) in the services sector, the metal sector and the public services (UNI, EMF and EPSU). The two-day conference was attended by 121 representatives from trade unions confederations, European Industry Federations, employers' organisations and the European Commission.

The conference addressed the potential conflicts of interest with regard to the health and safety needs of workers, and the need to balance the flexibility required by employers and with the security for workers. The key questions underpinning the conference relate to how trade unions can meet the challenges to accommodate the modern needs of workers and companies with regard to the organisation of work, the reconciliation of work and family life, the demands of an ageing workforce, employment and productivity, in the context of the pressures resulting from globalisation and the economic crisis.

The conference sought to inspire new approaches to regulation and practice, and to examine the conditions that are necessary to have positive outcomes for all stakeholders. While many Member States have already developed modern and flexible approaches, there is an overriding need for a strong regulatory framework to underpin working time developments and in providing the social partners with the scope to collectively agree new and innovative approaches to working time.

The conference discussed these challenges in relation to two main themes :

- The ongoing discussions about the revision to the Working Time Directive and the need to develop a modern regulatory approach that contributes to social dialogue and collective bargaining.
- To examine different approaches and good practices in EU Member States and how the social partners have developed innovative working time models that benefit workers and companies.

#### **TWO KEY MESSAGES FROM THE CONFERENCE**

- **The first key message from the conference was that a regulatory framework on working time is essential if working time arrangements are to meet the needs of workers and employers, and in particular to protect workers against stress and ill health resulting from excessive working hours, work intensity and precarious work. This regulatory framework is essential to creating the conditions for meeting flexibility from both employer and worker perspectives.**
- **The second key message is that a social partnership approach to working time can reap rewards for workers and employers through innovative and creative approaches to working time. The most innovative approaches to working time have been developed by social partners through collective bargaining.**

# 2

## Working time in Europe : a fundamental right

Working time is a fundamental right, but in recent years there have been attempts by the European Commission to reduce these fundamental rights to be seen again under the most recent proposed revision of the Working Time Directive (WTD). A strong WTD is highly relevant in the light of changes in the workplace, as well as in the organisation of work and societal changes. Globalisation and the internationalisation of finance, products and services, along with the economic recession, are impacting on working time in new ways. Alongside this the increasingly diversification of working time patterns and a need to balance flexibility with security, means that Europe requires a modern organisation of work and working time that meets workers' needs for healthy working hours, a better work-life balance and decent wages. These are crucial to achieving the EU's goals of more and better employment, competitiveness and gender equality, and to enable Europe to respond to the challenges resulting from the economic crisis, demographic ageing and global competition.

Questions linked to working time are fundamental to trade unions and our society, and lie at the heart of Social Europe. Safeguarding the health and safety of workers, as well as that of third parties, and allowing working people to reconcile private and professional life is crucial to the interests of workers, societies and economies.

### **FUNDAMENTAL RIGHTS TO WORKING TIME IN EUROPEAN AND INTERNATIONAL LAW**

In the European Union fundamental rights to working time are laid out in the Charter of Fundamental Rights and in the Treaties.

The Charter of Fundamental Rights guarantees all workers the right to limitation of their working hours and protection against the health and safety risks of long and irregular hours of work through “fair and just working conditions” and on the basis that “every worker has the right to working conditions which respect his or her health, safety and dignity” (Article 31). It adds that “every worker has the right to limitation of maximum working hours, to daily and weekly rest and to an annual period of paid leave”.

The EU Treaties stipulate that social policies should be developed to improve the living and working conditions of European workers and citizens and on that basis the European Union and the Member States shall have as their objective “the promotion of employment, improved living and working conditions,

so as to make possible their harmonisation, while the improvement is being maintained” (Article 151 TFEU). This establishes a duty to progressively reduce long working hours, while improvements are maintained.

The Council of Europe’s 1961 European Social Charter (revised in 1996) established in Article 2 the goal of reduced working hours requiring signing States to ensure “reasonable daily and weekly working hours” and the progressive reduction in the length of the working week.

Working time regulation is enshrined in the preamble to the International Labour Organisation (ILO) Constitution in 1919 and includes the “regulation of the hours of work, including the establishment of a maximum working day and week” of an eight hour day and a 48 hour working week. The thirty-nine ILO standards that impact on working time cover daily and weekly rest periods (eight hour day, 40 hour week), weekly rest period of a minimum of 24 hours, a minimum entitlement to three weeks annual leave, and includes standards on night work, part-time work and workers with family responsibilities.

# 3

## Trends in working time

While most EU Member States have implemented legislation for a 48-hour maximum working week, some have a lower limit of 40 hours, or in the case of Belgium a limit of 38 hours. In practice, working hours tend to be shorter because of collectively agreed reductions in working hours.

Trade unions believe that decent working time arrangement not only improves the health, safety and well-being of workers, but it can act as a lever for employment creation, and for work-life balance and time sovereignty of workers. While collective bargaining remains the main method for determining working hours, this is less the case in the newer Member States. Overall collective bargaining on working time addresses three main issues: the length of the working week or year; the introduction of working time flexibility; and the length of working life established through retirement ages, flexible retirement and early retirement regulations.

Today trade unions are approaching working time in different ways. For example, in the last decade working time reductions were negotiated as an integral part of employment policy in France and Germany. However, the extension of the working week and of the retirement ages is now core policy objectives of both governments. In contrast, unions in countries like Sweden have explicitly sought to improve the reconciliation of work and family/private life, while in the UK work-life balance and flexible working hours have predominated. One of the most significant changes in working time in recent years has been the increasing diversity of working time arrangements across Europe, resulting from an increase in part-time work and flexible working schedules.

In the last few years collective bargaining has reacted to the economic downturn, which has impacted on working time. Some of these concern statutory provisions and/or collective agreements on short time work (STW), as well as enforced reductions in working hours or short-term leave policies.



**SUMMARY OF TRENDS IN WORKING TIME :  
5<sup>TH</sup> EUROPEAN WORKING CONDITIONS SURVEY,  
2010**

- There has been an overall trend to reduced working hours in the last decade. In 2010 average collectively agreed weekly working time in the EU27 stood at 37.5 hours, a reduction from an average of 40.5 hours in 1991 (for the EU12).
- Workers in the former EU15 countries and Norway continue to work 1.1 hours a week less than workers in the new Member States.
- In 2000, 15% of the workforce was working long working hours (over 48 hours a week) and this declined to 12% in 2010. In 1991, 8% of the workforce worked fewer than 20 hours; by 2010 this has risen to 14%.
- 20% of women in employment, compared to 7% of men, worked part-time in 2010.
- 67% of workers work the same number of hours a week and 58% work the same number of hours a day; 77% of workers work the same days a week, while

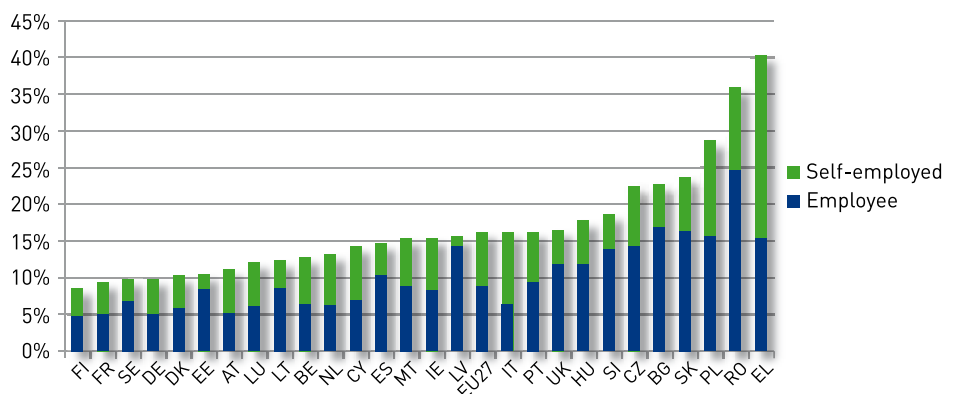
- 61% start and finish at the same time every day.
- Of those working non-standard hours, 16% worked long days at least five times a month; 17% worked shifts; 20% worked on-call hours; and 53% worked at the weekend at least once a month. While there has been an overall small reduction in the number of workers working shift work and night work, there has been a small increase in the numbers working at least one Sunday per month.
- Working time is a key issue facing an ageing workforce and will continue to do so as retirement ages are extended. Around 60% of workers in the EU27 believe that they would not be able to carry out their current job when they reach the age of 60. Many older workers express a preference to work shorter hours.
- More workers today experience intensive and stressful working conditions, which have a negative impact on health and well-being. However, there is a decline in the numbers of workers who feel that their working environment poses risks for their health and safety.

5<sup>th</sup> European Working Conditions Survey, presentation by Juan Menéndez-Valdés, Director, Eurofound

Juan Menéndez-Valdés presented the preliminary findings of the 5<sup>th</sup> European Working Conditions Survey (2010). The survey shows an overall sustained reduction in working time, but differences remain between the Member States. For example, the UK and the Netherlands there is a very large dispersion between long and short working hours. In other Member States the dispersion is smaller, for example, in Spain. The survey found that the self-employed work the longest hours in Europe. Table 1 shows the variation in the extent of long working hours across the Member States. Finland has the lowest number of employed and self-employed working long hours, while the largest number working long hours can be found in Poland, Romania and Greece. In Greece, over half of the working population are self-employed.

The perceptions of those working 48 hours or more is that long working hours have a negative impact on health and make work life balance harder to achieve.

TABLE 1 : PERCENTAGE OF SELF-EMPLOYED AND EMPLOYEES WORKING MORE THAN 48 HOURS A WEEK (5<sup>TH</sup> EUROPEAN WORKING CONDITIONS SURVEY, 2010)



The longer the working hours the slower the pace of work becomes. Long working hours can be explained by work pressures resulting from greater autonomy of work and a greater intensity of work resulted from demanding on work roles. Around 70% of those surveyed stated that they wanted to work less, and particularly with the self-employed and men wanting to work less, while women wanted to work more. Overall there has been a small upward trend to high levels of work intensity and tight deadlines. Overall, men work an average of seven hours a week more than women. There are significant variations between Member States with regards to levels of part-time work, and particularly the extent to which part-time work is voluntary or not.

There are significant numbers of workers who would like to work fewer hours, as seen in Table 2, and a smaller number who would like to work longer hours. Combined together this shows that a large proportion of the workforce continue to work hours that are not their preference, with slightly more women than men wanting to work more hours, and more men than women wanting to work fewer hours.

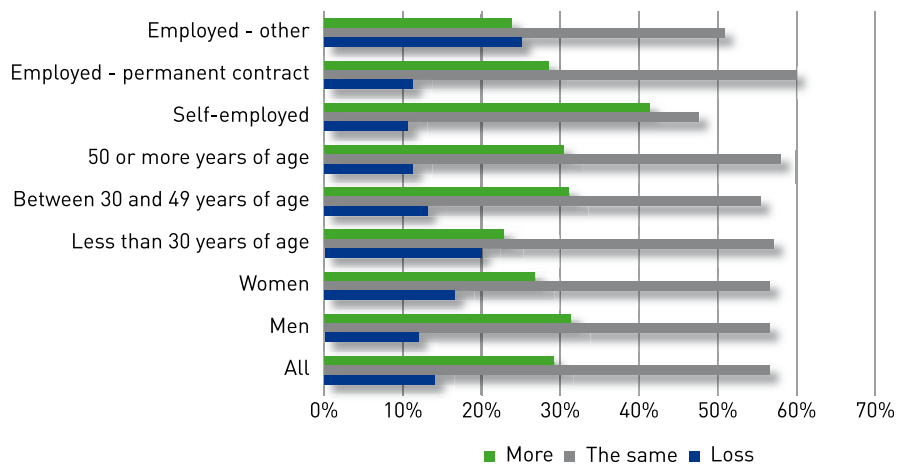


TABLE 2: WORKING TIME PREFERENCES OF DIFFERENT GROUPS OF WORKERS (5<sup>TH</sup> EUROPEAN WORKING CONDITIONS SURVEY, 2010)

Larger numbers of men, compared to women, have problems in achieving work-life balance, while women are forced to reduce their working time in order to achieve work-life balance across their whole career. The gender working time gap means that on average men work seven hours more than women in paid jobs. There are differences across the Member States, which are related to investment in social infrastructure such as childcare, and regarding occupational segregation.

Flexibility schemes in companies also vary across the Member States. In Finland more than 80% of workers are covered by flexitime schemes, compared to only 30% in Greece. The most common reason for introducing flexitime is to combine work and family life, followed by the need for establishments to adapt working hours to variations in workload. Different types of working time flexibility exist and have been documented by the Eurofound's 2009 Company Survey (Kerkhofs *et al.* 2010).

The economic crisis has led to different labour market responses, some of which have led to new approaches to working time. For example, reductions in working hours have been a method to retain jobs in Germany, while the opposite is the case in Spain. Of the short time working schemes that have been introduced across Europe, covering two million workers, 60% are in Germany and Italy.

# 4

## Working time and the economic crisis

The economic crisis has resulted in significant changes in working time. The 5<sup>th</sup> European Working Conditions Survey found that the economic crisis has led to an increase in part-time work and a significant fall in the average number of weekly working hours. Five million fewer people were in employment in the first quarter of 2010, compared to mid-2008 when the economic crisis began to hit Europe. Significant job losses have taken place in construction, manufacturing, transport, retail, health and education. Austerity measures and public expenditure cuts have hit public services. In some countries such as Ireland, Romania, Greece and Latvia, public sector workers have suffered pay cuts and reductions in staffing levels.

Job cuts have led to greater intensity of work, while part-time workers and women returning from maternity leave have experienced greater problems in adjusting their working hours. This has led to concerns about new forms of discrimination against women and includes concerns expressed by trade unions that it is harder to achieve flexible working that suits the individual.

### **EMF POSITION PAPER ON THE ECONOMIC CRISIS, 2009**

**“The trade unions’ goals are to avoid plant closures and redundancies. Working time policy is an instrument which can secure employment in the current crisis. The spectrum includes flexible instruments like flexitime accounts, short-time work, part-time work, temporary unemployment, training and education provisions, but also the reduction of stand-**

**ard working time, which is arranged via collective agreements. All systems should be backed up by access to unemployment benefit. The budgets for these flexible instruments must be enlarged in order to avoid a dramatic increase in unemployment and a social disaster in the EU”.**

Agreed at the EMF 6th EMF Collective Bargaining Policy Conference “*Jobs, Rights and Collective Bargaining*” Madrid, 17-18 November 2009

### Short-time work schemes : a response to the economic crisis

Since the onset of the economic downturn in Europe there has been a significant increase in short-time work (STW), either through statutory schemes and/or social partner agreements which have the effect of compensating employees for some of their loss of earnings that arise from reduced working time. Trade unions have played a key role in avoiding a significant increase in unemployment arising from the recession, by negotiating for STW and agreements on employment security.

#### EXAMPLES OF SHORT TIME WORKING ARRANGEMENTS

Austria, Belgium, France and Sweden have strengthened their STW schemes to avoid temporary lay-offs. Bulgaria, Hungary, Romania and Slovenia have recently introduced new schemes for this purpose. In Austria, Belgium, Germany, Slovenia and the Netherlands these provisions have been implemented through sectoral and local collective agreements. In Bulgaria, Hungary and Poland collective agreements on STW have been agreed in large and multinational companies.

Kurzarbeit, or short-time work in Germany has been introduced through collective agreements to avoid job losses by reducing the working hours. The government makes up some of the employees' lost income. In some cases employees can undergo training during their extra time off. The scheme has been extended to tackle the economic crisis and is of a longer duration, includes new groups of workers, and has a stronger training component. These schemes follow on from successful examples of work-sharing introduced in Germany in the 1990s; for example, in VW a reduction in working time saved over 30,000 jobs. In 2009, the budget for these schemes amounted to €5.1 billion, which replaced the lost income of over 1.4 million workers, and saving nearly 500,000 jobs during the recession.

In the metalworking sector across Europe, collective agreements provide for supplements to short-time allowances that maintain net earnings

at between 75% and 100% of workers' regular wage level. In the north Baden-Württemberg bargaining district in Germany, the guaranteed wage level for STW was collectively agreed at a rate of 80%. The agreement signed in April 2009, resulted in a new model for compensating employees on short working time. It also aimed to cut employers' costs, delay redundancies for as long as possible, as well as providing training for the workers affected. The unions also entered into an agreement to allow companies to employ staff on fixed-term contracts for up to four years, which is twice the statutory maximum duration of fixed-term contracts.

In Italy, the so-called 'Wage Guarantee Funds' provide for the reduction of working time or the temporary total suspension of activity by compensating workers for losses in income resulting from cuts in working hours, presupposes a collective agreement at the company or plant level. In some sectors – such as the financial sector – agreements on the reduction of working time and other employment-related issues (such as early retirement and training) have been re-negotiated in order to address the employment effects of the crisis.

In Swedish agreements on temporary lay-offs have been concluded for blue-collar workers in the manufacturing sector, and a similar agreement concluded later on for professional technical staff, are implemented at the company level.

Source: ETUI policy brief, Collective Bargaining Responses to the Economic Crisis, 2010

**CONFERENCE WORKSHOP : SHORT TERM WORKING**

The workshop opened with a presentation about the Swedish crisis agreement to prevent unemployment, resulting in a creative use of working time to retain employment. The crisis has particularly hit the steel and car manufacturing sectors, resulting in a loss in production of 41% in car manufacturing alone. In Sweden the need to find concrete and creative solutions led to the signing of working time agreements for 18-months, with a maximum reduction in working time of up to 20% cut in wages, while also saving jobs.

The workshop discussion focussed on the following points:

- There is a need for an exchange of information on different short-term working schemes. It is crucial that the schemes are temporary and focussed on the retention of jobs.
- In Germany, short-term working schemes existed prior to crisis through time banking, which enabled workers to bank overtime for leisure or learning. The onset of the economic crisis permitted time banking to be used as a temporary solution as a first cushion, which led to the development of the initiative on short-term working.
- Trade unions need to have a debate about linear forms of working time reduction, as is taking place in Austria regarding the usefulness of working time reductions in times of crisis.
- In Bulgaria, free time exists for vocational training. Trade unions need to make binding agreements with employers to further develop opportunities for lifelong learning.
- In Finland, early retirement has led to a shorter career and is a model that can be used in a time of crisis to prevent dismissals. However, this is against the driver to increase the length of careers and extend the retirement age.

# Working time : health and safety



## **LONG WORKING HOURS AND THE CONSEQUENCES FOR WORK-LIFE BALANCE AND HEALTH AND SAFETY**

- Long working hours are more likely to be experienced by men in the workforce; 18% of men and 8% of women worked long hours in 2010. Long working hours are more likely to be found in the manufacturing than in the service sector (with 20% of workers in manufacturing working longer than 48 hours in 2010, compared to 10% of workers in services). 42% of self-employed people report working more than 48 hours a week in the EU27.

- People working more than 48 hours or more a week report more significant problems with work-life balance (38%, compared to 16% of those working less than 48 hours a week).

- 37% of those working 48 hours or more reported that work had a negative impact on their health, compared to 23% working less than 48 hours a week.

Source : 5<sup>th</sup> European Working Conditions Survey, 2010

Working time is central to a healthy and safe working environment and the WTD is a core element of the EU's social acquis and has its legal basis in 'health and safety'. Research studies have consistently shown that productivity can be maximised through a five-day, 40-hour work week. Productivity drops immediately after 40 hours and continues to drop thereafter. At approximately eight 60-hour weeks, the worker output is the same as what would have been carried out in an eight hour day and 40-hour week. Long periods of continuous work drastically reduce cognitive function and increase the chance of serious health and safety risks. Despite improvements in productivity gains, long and unhealthy working hours continue across Europe.

The campaign of the ETUC and affiliated unions for a stronger WTD aims to ensure that the Directive continues to protect and improve the protection from excessive working hours. This is particularly important in relation to the health and safety of workers, their long-term health and well-being, and in achieving work-life balance and the reconciliation of work and family life. This approach

has been reiterated by the ECJ. For example, in the Jaeger case, on the application of on-call within the UK National Health Service, the ECJ confirmed that the provisions on health and safety in the Treaty should be given a wide interpretation. This was recommended so that all factors, including physical, social, health and safety, health and well-being in the working environment, and the organisation of working time are taken into account. In the ECJ's judgement reference was made to the Constitution of the World Health Organization, which defines health as a state of complete "physical, mental and social well-being that does not consist only in the absence of illness or infirmity".

The 5<sup>th</sup> European Working Time Survey (2010) found a significant impact of long working hours on men's participation in family life, with over 40% of those working more than 48-hours a week stating that their hours impacted negatively on their family or social commitments. In addition, the survey found that men would prefer to work shorter working hours to enable them to participate in family life more. In contrast women are more likely to have organised shorter working hours and part-time work in order to balance work with their care responsibilities.

When unpaid work is taken into account, women work a combination of longer paid and unpaid working hours than men. While men work longer hours than women in the workplace, women's composite working hours are significantly longer than men's. Taking both paid and unpaid work into account, female part-time workers work more total hours per week than male full-time workers, while the total working hours of women working full-time are the highest, at 65 hours per week, compared to 54 hours for men. The 4<sup>th</sup> European Working Conditions Survey (Eurofound 2005) reported that women spend more time carrying out unpaid work, including childcare and care for dependent adults, than men. The amount of time spent on unpaid work is more equal between women in men in Scandinavian countries in and the Netherlands, compared to other Member States.

**"By and large these productivity gains have only been marginally reflected in working time developments, the organisation of which remains typified by wide social inequalities which take a heavy toll on health. People get sick and die from overwork. People also get sick and die from having no paid work".\***

\* From : Laurent Vogel of the ETUI's Health and Safety Department, in "Time to Live", Editorial in HesaMag, No 2. ETUI Health and Safety at Work Magazine, page, 2010, page 4

### **UK TUC CAMPAIGN AGAINST LONG WORKING HOURS**

For many years the TUC has been campaigning against the UK opt-out of the Working Time Directive. In an interview in March 2009, the General Secretary of the TUC, Brendan Barber, stated that: "Excessive working time has been a factor in every major rail disaster in the UK. Other examples of the impact of long hours have been documented by the TUC. In 2008 it was found that "In jobs where concentration is vital, long hours can be a direct cause of fatal accidents". Examples include the death of

three workers in London when a crane that they had been assembling collapsed. The court attributed the accident to working over 100 hours per week. A lorry driver who had been working more than 70 hours per week fell asleep and crashed into a group of cyclists, killing an off-duty policeman.

The TUC has argued that the government has a duty to ensure that there is no harm to citizens or to anybody else. For example a worker who becomes ill or injures themselves through long hours may require lifelong health care from the National Health Service, at the taxpayers' expense.







**There is widespread abuse of the opt-out by employers, with 2004 research showing that only 34% of long hours workers had signed an opt-out, despite a legal requirement for most long hours workers to do so. Of the 66% that had not signed an opt-out, one in four said that they were pressured to work long**

**hours by their employer. 58% of long hours workers said would be happy for their employer to limit them to 48-hours. The TUC has also found that those who drop out of the workforce due to ill health caused by long hours do not feature in the majority of occupational health studies.**

Evidence from research shows a clear association between long working hours on health, safety and work-life balance, including risk of accidents and long-term impacts on the health of workers. For example, a study by the UK Health and Safety Executive in (2003) reviewed the literature on the relationship between long working hours and fatigue, health and safety, and work-life balance outcomes. The study concluded that there is an association between working long hours and fatigue, while accidents and performance were directly related to fatigue. The study found evidence of the potentially negative effects of working long hours on physical health, and particularly with regard to cardiovascular health. Long hours were found to impact on home and family life and to achieving work-life balance.

A review of fifty-two research reports on the link between long working hours and illnesses, injuries, health behaviours, and performance was carried out by the National Institute for Occupational Safety and Health in the USA (2004). It found significant research findings on the health effects of long working hours, with overtime being associated with poorer perceived general health, increased injury rates and increased illness. Long shifts, particularly where 12-hours shifts when combined with more than 40 hours a week, led to deteriorating performance and a greater incidence of injury, with the 9<sup>th</sup> to 12<sup>th</sup> hours of work leading to increased fatigue, lower cognitive function, deterioration in performance, poorer health, and increased injuries.

One of the most detailed longitudinal studies on the impact of overtime on Coronary Heart Disease (CHD) has been carried out on a cohort of over 6,000 women and men working in the British civil service, over a period of twelve years (Virtanen M *et al.* 2010). The study found that overtime work is related to increased risk of incident of CHD, independent of conventional risk factors. The study showed that 3–4 hours overtime work per day was associated with a 95% increased risk of incident CHD compared with employees with no overtime work. Adjustment for all of the 21 cardiovascular risk factors measured made little difference to these estimates.

A 2010 Danish survey found that unfit men who work long hours are more than twice as likely to die of heart disease as unfit men who work shorter hours.

The findings were based on a survey of 5,000 Danish men, aged 40 to 59, working in fourteen companies, whose heart health and physical fitness levels were tracked over 30 years. Men working 41 to 45 hours a week were 59 per cent more likely to die of heart disease, than those working shorter hours. Those men with low physical fitness working more than 45 hours a week had a double risk of death from heart, although not for men with moderate or high physical fitness, is a new observation.

A French study carried out by the Institut de Veille Sanitaire (InVS) in 2009\* found that employees in flexible and non-standard work, including part-time, short term contracts and temporary staff, are more likely to be affected by depressive illness, than workers on standard contracts of employment. The study found that education level also impacts on stress, with those workers with lower levels of education being the most affected. The authors of the study highlighted the importance of ensuring in the current economic crisis that more attention is given to monitoring the physical and mental well-being of workers, particularly as non-standard forms of employment are on the increase.

\* Cited in HesaMag, No 2. ETUI Health and Safety at Work Magazine, page 3, 2010

**Laurent Vogel** reminded the conference that the WTD is a health and safety measure on the basis that long working hours have a negative impact on health and safety. There is substantial evidence to show that workplace accidents increase with long daily working times. Germany studies, for example, show that daily working time of over 7-9 hours a day result in a significant increase in workplace accidents; while other studies show the impact of long working hours on cardiovascular health.

The distribution of time between day and night work is of great importance, as Vogel said: "That's the difference between robots and persons; biologically there are hormonal and social differences that affect people working night work". One Italian study found that the health of women working nights on an assembly line was negatively affected. In this workplace the ill health and disruption to family life experienced by women led this feminised enterprise to recruit more men. Further disruption to lives is found when workers have several jobs often with a gap during the day, for example, a job in the early in the morning and one later in the day. The wages of these workers, particularly in cleaning and retail jobs, are often low paid and result in a diminished number of working hours overall. As a result: "One hour of work is not an hour of work". Another important factor in the workplace is having opportunities to socialise and to be able to relate to the work of other people in the workplace. In one study in France, the introduction of the 35 hour working week meant that time to socialise in the workplace and catch up with work colleagues was sacrificed, with consequences for the workplace.



**Working time and health and safety: social hierarchy and gender.**  
Presentation by Laurent Vogel, ETUI

There is a fine line between work and non-work, particularly when workers are on-call. A study in Germany found that 66% of workers had to be available by mobile phone and to be contactable outside of working hours. In most cases worker had no formal agreement for this, with only 34% signing a collective agreement to this effect.

Vogel presented the findings of differences in working time for women across Europe based on the findings of Plantenga and Remery (2010) study. For example, in the Netherlands working time for women peaks at between 11-20 hours, while for men it peaks at 40 hours. In contrast in the UK there are not such significant working time differences between women and men, although men's working hours peak at over 48 hours. In Hungary, there are no differences in working time between women and men, where few women work part-time and around 80% of women and men work 40 hours per week. In France, women are more likely to work under 30 hours a week than men, while after 30 hours a week women and men have similar working time schedules.

Working time is affected by social class and educational levels. In one Spanish study there was a correlation between domestic work, the numbers of persons in a household, and educational levels. This study showed that low levels of educational achievement and the size of the household were related to health status and a five-fold increase in levels of chronic health for those whose lives were overloaded with paid and unpaid work. Higher income groups may benefit from domestic help, which has a protective function for health.

A study by the Direction de l'Animation de la Recherche, des Études et des Statistiques (DARES) (2011) of night work in France found that an exposure of fifteen years or more of night work increased the probability of an early ageing process. There is also a correlation between working conditions and less favourable conditions at night, often resulting from exposure to physical or chemical hazards and less communication and consultation between co-workers.

The WTD only deals with the duration of work and does not take gender relationships into account. As Vogel says "This is a paradox and the Directive is gender blind. We don't know if workers are men or women, but the Directive is configured for full time jobs and is based on a simplistic definition of the duality of work and rest. Domestic work, education, transportation are all factors that we do in our rest time, but these are not rest". In this light it is particularly interesting to note that paid domestic work, such as cleaning help, is excluded from the Directive. This is of particular concern because paid domestic workers often experience very long work days.

The WTD is now 18 years old and was introduced as a temporary compromise to satisfy the UK, enabling there to be an opt-out clause where an employer could obtain derogation with agreement with workers. The amendments proposed by the Commission today represent a significant regression in social policy: "This was presented as a temporary solution that would be ended, but now the Commission wants to make this a permanent feature, which would demolish many of the provisions of the directive".

A key element of flexibility in working time is to enable workers to adjust their working time to suit their family and social circumstances. This flexibility to have control over personal time and working time is crucially important if a child is sick or if there are unforeseen circumstances. This may conflict with the flexibility required by employers. Vogel concludes that the Working Time Directive does not include consultation with workers in the enterprise, in contrast to other health and safety Directives.

#### **CONFERENCE DISCUSSION POINTS ON LONG WORKING HOURS AND THE WTD**

- **The issue of on-call work needs to be resolved so that it is treated as normal working time and this requires that core standards are in place that are non-negotiable.**
- **Harmonised European rules are needed to ensure that there is no individual opt-out; rules can be**

**improved by negotiation but no there should be no derogation regarding rest time and weekly hours. Night work should be regulated to take account of social and health needs. It would be best to have a set of framework regulations that leave room for negotiation.**

#### **Flexible and precarious work**

The growth of flexible and precarious working time arrangements (broken hours, unpredictable working time, on-call work, shift work, night work and weekend work) have a specific impact on health and safety at work, and work-life balance. The 5<sup>th</sup> European Working Conditions Survey found that 16% of workers worked non-standard hours at least five times a month; 17% worked shift work; 20% worked on-call; and 53% worked at the weekend at least once a month. While there has been an overall small reduction in the number of workers working shift work and night work, there has only been a small increase in the numbers working at least one Sunday per month.

Many governments and/or employers do not follow the ECJ in its definition of on-call work as working time, as laid down by the ECJ. Evidence of the increase in on-call and standby work across Europe can be found in a German research which found that 66% of employees can be reached by mobile phone outside of office hours, with 32% stating that they can be reached at night. Overall the study found that 41% of employees are not covered by a company or individual agreement on on-call work.\*

\* Cited in HesaMag, No 2. ETUI Health and Safety at Work Magazine, page 3, 2010

Fighting against work on Sundays and nights/ late evenings is a priority for unions in the commerce sector. The protection of a work-free Sunday is of paramount importance for workers' health, and has a greater impact on workers health and well-being compared to any other work-free day. Sunday work impacts negatively on work-life balance, and results in higher levels of stress, ill-health and absenteeism than other work-free days. The UNI Europa Commerce conference, held in Geneva in 2007, confirmed its opposition to Sunday shop opening and agreed to support affiliates in working against these developments and to build alliances across Europe :

Late night and Sunday opening creates serious social problems for commercial workers and their families, and threatens cultural values and social fabrics of our societies, without bringing real added value, neither to the industry itself, nor to its workers and the consumers. (Paragraph 17)

UNI Europa's 2010 'Resolution on Sunday and night/ late evening working hours in the Commerce sector' is a response to the proliferation of legislation favourable to Sunday and late opening hours in the retail sector. The Resolution states that Sunday and late working hours are damaging to the working conditions of commerce workers, which have a broader societal and environmental impact. It calls for specific attention to be given to the societal impact of Sunday and late/ night working and the boundaries between leisure/family time and shopping time. It urges the EU and the national authorities to adopt measures that protect the workforce and keep late/night evening and Sunday work free as a principle. It recommends that derogations should only be permitted if they are collectively agreed between the social partners; that Sunday and late/night work should never be compulsory; should be compensated primarily by free time to protect the health and safety of workers; and that an objective assessment of the social and environmental consequences of Sunday and late/night working should be carried out in advance. UNI Europa Commerce is preparing a campaign and providing information to unions in the sector about the social, familial and environmental impact of Sundays and late/night working, and on regulations and collective agreements.\*

\* [http://www.uniglobalunion.org/Apps/iportal.nsf/pages/20090529\\_hc6tEn](http://www.uniglobalunion.org/Apps/iportal.nsf/pages/20090529_hc6tEn)

**The European Alliance for Sundays Free of work was established at a conference held by the European Parliament in March 2010. The conference brought together political parties, civil society, religious organisations and trade unions, who declared their opposition to Sunday work. The Alliance issued a**

**Statement to the EU Commissioner for Employment and Social Affairs and Inclusion, Mr. László Andor, calling for a work free Sunday.**

For further information see : <http://www.europeansundayalliance.eu/>

**Michel Gollac** gave the conference evidence that intense work is linked with physical exertion and risks, poor psycho-social working conditions and unsatisfactory work-life balance. There is a worrying trend towards higher work intensity, which is perceived as unsustainable. However, workers do not have choice in intense working conditions and particularly in striking a balance between the constraints of work and health and safety.

Evidence from the 4<sup>th</sup> European Working Conditions Survey finds that 47% of employees, 53% of employers and 43% of the self-employed reported that their job involves working at a very high speed at least half of the time. Where work intensity is high there is a negative impact on the precautions taken against risks from hazardous products or substances, or from physical risks such as repetitive strain injury or lifting. In addition, to a negative impact on working conditions there is also a risk of that stress, anxiety and depression, which are related to low levels of work autonomy, not being able to do a good job and having limited access to learning and other opportunities for development.

The evidence of the negative impact on work life balance is taken from the 4<sup>th</sup> European Working Conditions Survey, where women reported that the constraints of intense working resulted in an unsatisfactory work-life balance. This was more so in the case where women were carrying out several jobs. The increase in work intensity results from working to tight deadlines in at least a quarter of working time. National surveys from the UK and France show that work intensity was also very high in the 1980s, suggesting a long trend of high work intensity. There is no sign that this trend is reducing, rather there is now a situation of very high work intensity. This has implications for the ageing workforce. Findings show that older workers have more difficulties in working at high speed and an increasing trend of older workers having to work more intensely.

There is evidence of a link between organisational change and work intensification, while organisations often have complex structures and demands that result in several constraints being placed on workers at the same time. As a result there are major implications for work organisation and organisational change and how work constraints are handled by organisations. In particular, there is no evidence of the link between work intensity and productivity, with evidence showing that high work intensity is linked to poorly functioning organisations. Research by Lorenz and Valeyre, for example, show that some modern organisational models that focus on 'lean production' lead to intense working practices. Other organisational models are no less efficient, for example, where they adopt a 'learning organisation' model of work based on cooperation and continuous accumulation of human capital.

Work intensity  
in Europe.  
Presentation by  
Michel Gollac,  
Administrateur  
hors classe, Centre  
de Recherche  
en Économie et  
Statistique (CREST)

**“There are negative effects on productivity and on the competitiveness of the economy. There are long term costs for society of the psychological risks of intense working. Work intensity is not a good method or the only method to increase productivity. Intense work is unsustainable”.**

Reactions to stress, the threat of not being able to do work effectively or urgently are unhealthy for workers. This results in health impacts such as immunity to infection, cancer and cardio vascular health. The vicious circle of work intensity and stress is the result of the poor organisation of work. However, it is possible to improve physical and psychological working conditions. There is evidence of improvements in work organisation, resulting in reductions in accidents and better working conditions with no loss of productivity. This shows that that stress and physical working conditions have a common cause.

#### **CONFERENCE DISCUSSION : PRECARIOUS WORK AND WORK INTENSITY**

- Saturday or Sunday working results in a greater risk of ill health and accidents; and provides an important rest function for weekend, family time and leisure activities. The evidence is that the risk increases if a worker works one Sunday a month.
- In Austria a discussion is taking place about whether to cut the working week to prevent unemployment. The question is will the cut in the working week be bad for your health and lead to greater work intensity?
- Poor work organisation is not the only factor. In the services sector in Germany cuts in staffing levels have resulted in more intensity of work.
- The individual opt-out from the WTD has led to worsening conditions and a longer working week, despite a gradual reduction in working hours over time. There is a lack of monitoring of the impact of long working hours and of the impact of opt-out workers.
- There is a clear connection between daily working hours and the effect on health and safety for workers working more than 7-9 hours a day. However, it is not possible to come to same conclusion regarding weekly working hours, although the Deloitte study recommends that a 40 hour working week should remain the maximum working time.
- In Lithuania civil aviation pilots experience very high intensity of work, with many working up to 60 hours per week.
- Standardisation of tasks, for example, in cleaning, provides a good measurement of intensity of work. It is essential that there is negotiation at enterprise level.
- The extension of retirement age will have consequences for older workers carrying out strenuous tasks. This is already resulting in evidence of an increase in stress related diseases.
- There is evidence of risks resulting from hours of work as well as stress, increased workloads and difficulties in completing work tasks. Rest periods should take place before fatigue and stress take place.
- TUC, UK research found that it is hard to address work intensity, especially in light of job losses. In the light of the ageing of the workforce it is important to enable people to work longer and to address work-life balance for older workers.
- The Deloitte study reinforces the need for regulation of working time and confirms other studies that point to the negative impact of long working hours.



## Innovative solutions to working time through flexible working time

Innovative solutions to working time through flexible working time have become more commonplace across Europe. There has been a change of emphasis in most Member States towards more flexible and individualised working hours that enable tailor-made solutions to be achieved, within a regulatory or collective bargaining framework. Key to the success of these schemes is a partnership between trade unions and employers, through collective agreements and workplace negotiations.

### **Flexibility at work: defining flexibility**

Workplace flexibility is generally conceptualised in two distinct ways, which have different functional purposes (Hill *et al.* 2008). First, is the *organisational perspective*, which emphasises the benefits of flexibility to the organisation, rather than to the worker, enabling organisations to adapt to changing demands and market drivers and adopt organisational change to meet market needs. This perspective may or may not benefit workers. The second is the *worker perspective*, which emphasises workers' ability to make choices about where, when and for how long they work, and in particular to achieve work-life balance and meet their personal needs outside of work. When workers have more control over their work and exercise flexibility they are more likely to be motivated, loyal and engaged workers. This ultimately benefits the organisation and had resulted in a wide range of employer practices on workplace flexibility to give workers choices.

However, it is important to distinguish these two different perspectives on flexibility, since organisational flexibility required from processes such as 'just in time production' may not ultimately be for the benefit of workers. Taking a comprehensive approach to flexibility is nonetheless important and needs to be based on mutual trust and respect between employer and employee, a



supportive workplace culture and practices that enable workers to have optimal control over their job and working conditions.

Collective bargaining, local agreements and a partnership between employees and employers in the workforce are all key elements of implementing an organisational culture that facilitates flexible working time. The importance of the organisational culture is a key finding from Eurofound's 2004-5 European Establishment Survey on Working Time and Work-Life Balance (ESWT) survey. The survey, conducted in over 21,000 establishments in the public and private sectors, highlights the importance of the organisational structure of companies, collective agreements and cultural factors in each country as being important to creating the conditions for reconciliation policies. It points to the increasing role of local agreements to facilitate flexible working hours, particularly for women with family and care responsibilities.

More employers recognise the business case for workplace and working time flexibility, which drive business performance and results, talent management, employee retention, engagement and loyalty; while for workers having autonomy in working time enables them manage the pressures arising from work, family life and other commitments and achieve work-life balance. The basis for this is a partnership between employees and employers and can achieve a win-win for both. Innovative, new and creative flexible working time arrangements are leading to work being defined differently, with a focus on results rather than on the hours worked. The high prevalence of flexible workplace arrangements, ranging from part-time work, flexitime schemes, telework, compressed work weeks, phased return from leave, job sharing, summer hours, phased retirement and virtual work, result from a spectrum of ad hoc measures in the workplace, to structured flexibility and through to pure flexibility. One of the barriers to achieving working time flexibility is workplace culture and norms that are rigid and focus on hours, being present in the workplace and 'face time', while this rigid culture impacts on manager attitudes and a lack of awareness of the benefits of flexibility amongst senior leaders. Flexibility can also be a strong argument in the recovery from the economic crisis, enabling employers to trade off pay for more time off or flexibility.

Part-time work has become an important element of workplace flexibility and evidence from large scale surveys showing that gender is a key factor in the relationship of part-time status to work to retention, with women to a greater extent than men working part-time voluntarily (Johnson *et al.* 2008, Richman *et al.* 2008, Eurofound 2007). Johnson *et al.*'s (2008) research shows that part-timers are no less committed to their work and therefore not less valuable in the workplace, while stress and burnout are lower for part-timers than full-timers. However, it is only when part-time work is voluntary that employee engagement

and retention is high, and is not the case for involuntary part-time work. The data also shows that workers who have access to flexibility at work have higher scores related to engagement and lower scores on stress and burnout. As a result flexibility can provide a buffer against the negative impact of long hours on engagement, stress and burnout. Other data also shows that perceived workplace flexibility and supportive work-life balance policies have a positive impact on employee engagement and retention, and results in organisational commitment, engagement and dialogue (Richman *et al.* 2008; Eurofound 2005).

**Innovation in working time : examples from different sectors**

**Health sector**

Working time is of great importance to the health sector across Europe because of the implications of long working hours for the health and safety of staff, patient safety and the impact on work-life balance for the recruitment and retention of staff. Staffing shortages pose major challenges for health care systems, which are likely to intensify as a result of the ageing workforce. Many skilled health workers will retire as demand for health services from an ageing population rises. Staffing shortages are particularly acute in some Central and Eastern European countries where many skilled health workers have left to find work in Western Europe.

Negotiations for improved working time arrangements have been a core objective of the social partners. At the European level a social dialogue framework of actions on recruitment and retention has been agreed, while at the national level the social partners are examining innovative ways of organising working time to improve work-life balance and respond to the requirements of the WTD and the ECJ rulings on on-call time at work.

**EXAMPLES OF INNOVATIVE ACTIONS TO ADDRESS WORKING TIME IN THE HEALTH SECTOR**

**EPSU and HOSPEEM “Recruitment and Retention – A Framework of Actions”, 17 December 2010 \***

The framework of actions highlights the implications of working time in providing a 24/7 service, particularly with regards to staff and patient safety, and work-life balance :

“HOSPEEM and EPSU acknowledge the benefits that can be gained from staff having planned and agreed hours of work and rest periods. Social partners will cooperate to promote the best way of delivering ef-

ficient health care, which will safeguard staff and patient health and safety.”

“The majority of health care staff are women, a significant number of whom also currently have caring responsibilities. In order to facilitate the full participation of men and women in the healthcare labour market, health employers and social partners should take measures and develop policies which will improve the work-life balance of workers.”

**France : retaining older nurses through reductions in working time**

In France a collective agreement between trade unions and employers in the health sector in 2008 has





led to an innovative scheme to reduce working time and lighten the workload for older staff, particularly nurses, as a means of retaining them in the workforce. The initiative provides for the right to days off for nursing and other paramedic staff as they get older, with up to an additional 36 days off per year for those aged 55 years and above. The agreement resulted from concerns about a shortage of nurses and work-related physical and psychological health problems faced by older nurses, and the need to retain nurses in the workplace until retirement. The lost time is compensated through the creation of new jobs.

#### **UK: Hospital at night initiative for 24/7 acute care**

The 'Hospital at Night' initiative is a good example of how the Working Time Regulations have been implemented in the UK to reduce working hours from 56 hours a week to 48 hours a week by 2009. This has provided an opportunity for positive change, to retaining levels of service, patient safety, high quality care and the quality of training. The benefits have been better clinical outcomes and a 20% reduction in length of stay, admissions and readmissions. In meeting the Regulations strategies have included moving doctors from on-call rotas to full shifts, an increase in the numbers of doctors employed at junior grade level, reorganisation from three to two rotas, more effective planning of shift-work, and a whole system approach. The implementation of the system has had positive outcomes on training, work-life balance and safer patient care.

#### **Finland: Working time flexibility in the health sector**

An innovative method of shift planning for nurses has been developed in a project led by the Finnish nurses union SuPer, in partnership with Trade Unions of the Public Welfare Sectors (JHL) and the Union of Health and Social Care Professionals (Tehy), and two employers organisations. A participatory planning model has been put in place to enable staff to plan roles and tasks together, based on principles of fairness and equality. The shift planning model has adopted principles of ergonomic working time based on a model of two mornings, two evenings, two nights and four days off. This is also based on a greater deal of regularity, 8-10 hour shifts, at least 11 hours off duty between shifts, no more than 48 hours working time a week and consecutive days off. Staff are able to plan their working time schedules and ward shifts in a participatory way, taking into account skill mix, staffing levels and the preferences of other workers on a ward. There has been a very positive impact on staff who now have more control over their work, which in turn has had an impact on their well-being. This has also led to high quality nursing, effective use of resources, motivated and committed workers, and better retention of staff. The example shows the benefits of a participatory approach and the role that the social partners can play in inspiring positive forms of flexibility with benefits for staff and the organisation.

\*See: <http://www.epsu.org/a/7158>

#### **CONFERENCE WORKSHOP: INNOVATIVE WORKING TIME IN THE EMERGENCY SECTOR**

The workshop opened with a case study from the Finnish nurses union SuPer (see description above). The workshop discussion focussed on the following points:

- The example of the "night hospital" in the UK National Health Service is an example of a positive approach to tackling the long working hours of doctors in compliance with the 48 hour working week, without recourse to the opt-out, to the benefit of the service.
- The opt-out can only be used in the Netherlands

where there is a collective agreement in place. In practice, 90% of workers in the ambulance and fire fighting sectors have refused to sign the opt-out.

- Some Member States, for example, Bulgaria and Greece, have still not fully implemented the WTD. There is a failure on the part of the Commission to ensure that the Directive is fully implemented.
- The opt-out leads to a long hour's culture. The WTD should be retained as a health and safety measure and should not be implemented through individual choice. The duty is to ensure that all workers work safely.
- The WTD is silent on gender equality and continues to be modelled on a full-time work model,





with little regard for the need for work-life balance. Working time is also a gender equality issue because many long hours jobs are off limits to women.

- The impact of the economic crisis is that employers have had more power to force opt-out. In the light of poor monitoring it is essential that there are protections in place. For example, the economic crisis in Spain has led to unemployment of 4.3 million and the opt-out is more likely to be used in this context, particularly as many workers are worried about losing their jobs.
- The opt-out needs to be more effectively monitored, particularly where it has been used to replace on-call work. It is important to discuss how regular shift systems can be implemented in order to resolve issues of active and inactive on-call. It is necessary to be more innovative about shift systems that respect health and safety.
- In the energy sector in Spain on-call work is only counted as working time when a workers is called into work. This is of concern as there is a requirement to be one hour away from the workplace, and despite the fact that there are collective agreements that provide for on-call work as working time.
- There continue to be significant differences between the WTD and the Directive covering working time in the transport sector.
- The right to reduce working time should be based on rights and responsibilities rather than individual choice.
- Putting in place a legislative provision for a 12-month reference period for working time of up to 48 hours, as provided for under the Commission's proposals, will undermines the role of collective bargaining in working time

### Commerce sector

In the last decade the commerce sector has been a source of employment growth. In 2008 the retail sector employed a total of 17.4 million people in the EU (8.4% of the total EU workforce). However, the sector has been hit by significant job losses and the imposition of short working time arrangements, as a direct result of the economic recession. The trend towards part-time work and flexibility in working time has intensified in recent years. The economic crisis has led to a shift in priorities amongst the social partners, with a greater emphasis on the introduction of mechanisms to secure employment in times of economic recession, with working conditions generally receiving a lower priority in bargaining. The sector is typified by a large share of low-skilled work; 60% of employees in the sector are women, and 35% of workers work part-time. The workforce is relatively young, with 30% of those employed under the age of 30. A recent report of the European Commission (2010) noted the tensions between the social objectives of providing decent quality jobs and career progression opportunities in a highly competitive sector that requires flexible staffing schedules.

Bargaining in the sector covers wages, working time and working conditions, opening hours and Sunday working, night/late working hours, overtime, voluntary part-time work, and flexible working hours. Unions have been instrumental in negotiating a range of flexible working time schedules in the retail sector, particularly for women and older workers. Some of these have been very innovative, aiming to give workers more time sovereignty and improved work-life balance.

#### **EXAMPLE: TESCO OVERTIME BOOKING SCHEME**

The supermarket chain, Tesco, employs 340,000 staff in 2,500 stores. The company has introduced an online overtime booking system, based on a one-year pilot called 'slivers of time'. The online overtime booking system was a joint initiative between Tesco, the union USDAW and the National Forum Representatives. A working group was formed to design and develop the new system and to agree the guiding principles that support the process. The trade union believe that the scheme has been particularly important in improving work-life balance as staff can plan up to six weeks ahead, rather than being asked to work overtime hours at short notice, which often does not suit the workers themselves.

The scheme enables employees to state when they are available to work overtime in their own stores or in stores nearby to them. Managers use the scheme to book the staff when they are needed. It enables staff to work additional hours/overtime hours above their core contracted hours and therefore to increase their earnings. Staff register the

hours and days they are available to work, which provides greater flexibility to meet their needs. The system allows staff to work in their 'home' store or other Tesco store formats where overtime/additional hours are available. There is less pressure on staff to work additional hours/overtime at short notice and staffing requirements can be planned in advance to meet customer demands and trading. Trained and knowledgeable staff that are able and willing to work additional/overtime hours are available to work for other stores if needed. The better use of technology allows for a fair, transparent and efficient allocation of available additional hours/overtime and the booking system is more efficient for store managers and is less time consuming. There is greater opportunity to support flexible requests, a large diverse workforce and people with very different and individual needs. Most importantly, staff are in full control of their additional/overtime hours availability. Prior to the scheme being introduced overtime had to be booked manually by line managers approaching people in-store or by staff signing themselves up for additional hours on staff notice boards, often at very short notice.

#### **Metalworking sector**

The metalworking unions across Europe have achieved a general reduction in working hours over the last decade. More recently flexible working hours schemes including flexible working time accounts, short-time work, part-time work, temporary unemployment and training and education provisions, have dominated union collective agreements. During this time unions in the sector have continued to press for a reduction in standard working time to 35 hours a week. The main focus on working time since 2007 has been the introduction of working time measures to reduce job losses in the sector, following the onset of the economic crisis. Short-term working schemes have been a key feature of bargaining in the sector in a large number of Member States since 2007, which aim to implement statutory schemes to prevent job losses and to negotiate for further compensations in the pay of workers for these reductions.

In July 1998 the European Metalworkers' Federation (EMF) concluded a 'Working Time Charter', which stated that working time in Europe should not exceed an annual maximum of 1,750 hours, a 35 hour week, and a maximum


of 100 hours overtime per year to be compensated by payment. A survey on working time was carried out in 2004 and 2005 as a basis for monitoring the Charter. Since the EMF's 2005 survey was carried out it is apparent that there have been significant changes in the way that unions have approached working time, not least because of the increasing flexibility of working time arrangements in the sector and a growing offensive by employers to increase working time without compensation of pay. Trade unions in the sector are also very well aware of the fact that the general collective reduction in daily, weekly or annual working time has come to an end, and that new forms of flexible contracts and short-time contracts have predominated since the economic crisis. The EMF Working Time Charter states that :

The introduction of flexibility in working time can only occur through collective agreements. Flexibility must be implemented in respect of the average contractual working time and in pursuit of the overall aim of a working time reduction.

In 2009, bargaining in the Austrian metalworking sector, led to unions preventing employers from introducing a flexible working time scheme in exchange for pay increases, although this did lead to an agreement to enter into negotiations about future working time flexibility measures. The negotiations on working time flexibility were ended by the employers in 2010. The unions refused an extension of the reference period for paying overtime, which would have allowed companies more flexibility in times of economic uncertainty and would have led to a loss of earnings for workers.

The applications for the **ETUC** Working Time Innovation Award stipulated that all projects submitted should be based on agreement between unions and employers and have introduced innovative working time arrangements.

The winning application was the six-hour working day project in Time Heimdal, a dairy company in Norway, presented by the LO Norway. The first runner-up was a social dialogue project on fair working time organised in the prison service in Romania, presented by the National Prison Administration Trade Union. The second runner-up was of a national programme to retain employment by reducing working time in Bulgaria, presented by the Confederation of Independent Trade Unions in Bulgaria. All three examples, summarised below, show that innovation in working time and a win-win can be achieved for workers and employers if there is an open process of consultation and dialogue in the workplace.

The logo consists of a large orange circle with a white speech bubble shape on the left side. Inside the circle, the text "ETUC Working Time Innovation Award" is written in white, stacked in three lines.

ETUC Working  
Time Innovation  
Award

### **SIX HOUR WORKING DAY AT TINE HEIMDAL: NORWEGIAN CONFEDERATION OF TRADE UNIONS**

LO Norway and member unions have had an objective to experiment with the introduction of a six hour, 30 week. The TINE Heimdal project is one of the most successful experiments to date, and data and outcomes have been evaluated by two research institutes. LO has introduced a guide to implementing a six-hour working day and to showing the benefits to both businesses and workers.

The background to the project was a collective agreement signed by the Norwegian Food and Allied Workers Union (NNN) and the parent company TINE in 2006, which resulted in the initiation of a six-hour working day pilot project. The company refines and sells milk and dairy productions and manufactures and sells other food products. In 2007, the pilot project was initiated between the social partners at TINE Heimdal, with the objective to achieve a win-win outcome that would enable workers to reduce their working time while maintaining productivity levels. The company employs 169 workers, 94 of whom work shifts. The workforce is made up of 62% men and 38% women, the majority of whom work full-time. Prior to the project starting the working hours were 06.00 to 24.00.

The two year pilot for a six-hour working day has had very positive outcomes in terms of productivity, quality and reduced sick leave. A continuous production system has resulted in greater efficiency. There have been improvements in the working environment and self-reported health. The reduction in working hours also provided the company with an opportunity for workers to benefit from skills building and to study for a craft certificate, which has had a positive effect on motivation, knowledge and skills. The company also implemented a new management culture that led to teamwork based on results, which eight out of ten workers stated led to a more supportive work environment and the fostering of creativity. The impact of reduced working hours and fewer burdensome evening shifts led to an increased work pace, as workers saw the benefits of the shorter working hours. Improved productivity resulted from shorter breaks, and although there was a risk that this would result in increased levels of stress and work pressure, nine out of ten workers experienced greater job satisfaction. Making it easier for shift workers to adapt their working hours has had very positive benefits for work-life balance, on the basis that the evening shift now ends at 20.00 hours.

A key feature of the pilot was the active participation of workers and open communication between management and workers. This helped to build trust, an open decision-making process and joint problem solving. Workers were the key to providing insights into the best solutions for different operations. The pilot is a good example of the implementation of smarter work practices and a learning organisation model which has benefited other organisational changes and continual improvement in the company. According to the LO "Delegating authority to employees and managers sustains the daily preparedness for change and contributes towards a meaningful work experience".

### **FAIR WORKING HOURS FOR PRISON STAFF: NATIONAL PRISON ADMINISTRATION TRADE UNION (FNPTU), ROMANIA**

The Fair Working Hours project was initiated in 2009 and has resulted in a collective agreement between the FNPTU and the employer to improve the working conditions of prison officers and civilian personnel. A key priority for the union was to improve the reconciliation of work and family life. The initiative was developed to improve the working conditions of staff, with a particular emphasis on improving staff training and implementing fair working practices and fair working hours. The initiative has been developed as a social dialogue initiative with representation from the FNPTU, the Ministry of Justice, the National Administration of Prisons, prison management and the other union in the Prison Service nationally, the SNLP union.

Prison Officers have a civil service status and are employed by the National Administration of Prisons. Although working time has been reduced for prison staff, from 240 hours per week in 2004 to 168 hours in 2010, there is a continued problem of unpaid overtime. This arises because 30% of positions are vacant and results in the legal limit for overtime being breached in order to cover all posts. In addition the management lacked a flexible instrument that would make better use of staff time. This led to activities being introduced for flexible staff planning and a social dialogue framework. Discussion took place through a social dialogue and through work groups, and a pilot programme organised in two prisons. An agreement was reached between the National Administration of Prisons and the trade unions on working hours.

The initiative has led to a process of dialogue and consultation with the unions, resulting in improved enforcement of working hours and an opportu-





nity to balance improved working hours for staff with those of the needs of the institution. Staff can choose to work flexible and optional working hours, for example, staggered hours, and to benefit from time off in lieu for hours worked over 168 hours a week. The outcome is that working hours have reduced through a better organisation of working time, resulting in a 60% reduction in extra-hours in 2010 compared with 2008. According to FNPTU: “Changing rules as a process of social dialogue is groundbreaking and an immense challenge for the status quo. Although dialogue on this matter proved difficult, management accepted slowly that the trade union is a partner and consultation of worker’s representative is compulsory”.

**NATIONAL PROGRAMME TO RETAIN EMPLOYMENT BY REDUCING WORKING TIME: CONFEDERATION OF INDEPENDENT TRADE UNIONS IN BULGARIA**

A national programme to maintain employment in companies in Bulgaria by reducing working time has been agreed through social dialogue in Bulgaria. It began in 2008 and was subsequently extended to the end of 2010. Financial support is provided by the government to companies to prevent job losses and avoid an increase in informal employment and undeclared work. The programme enables employers to introduce part-time work in order to prevent layoffs, after consultation with unions. This has had the effect of easing pressures on labour, in reducing the employment gap across the regions and in enabling businesses to recover from the economic crisis.

Part-time work can be introduced for a minimum of two months and a maximum of three months, following consultation with unions. The involvement of the unions builds on the growing importance of the social partners for the development and implementation of a modern organisation of working time. In Bulgaria the social dialogue takes place through the bi-partite and tri-partite social dialogue structures that have been established, the most important of which with regards to employment policy is the National Council for Social Dialogue and National Council for Promotion of Employment.

The programme was established by a special decree issued by the Council of Ministers (n°44 February 19, 2009) on the conditions and rules for the payment of compensation to workers and employees in the industry and service sectors. In 2010 the decree was amended (n°336 of Council of Ministers) to introduced a monthly compensation for a period of four consecutive months amounting to €60 per month.

The programme has prevented the unemployment for workers, who have been retained in employment in part-time work. In the first three months of 2010, 6,382 salaried employees and 251 companies in the services and industry sectors benefitted from the programme, the costs of which amounted to €1.5 million.

## Reconciliation of work and family life

Workers today are more concerned about their work-life balance, reflecting a trend of dual-earning households. According to the 5<sup>th</sup> European Working Conditions Survey, 18% of workers in the EU27 are not satisfied with their work-life balance. Women are more likely to adapt their working hours, for instance, by working part-time to balance work and family responsibilities. However, this is less evident for men.

The issue of reconciliation of work, private and family life is of major importance in the context of the demographic and economic challenges facing the EU. A better balance between work and private life not only benefits parents and enhances gender equality, but benefits all workers. Reconciliation policies can help to promote the equal sharing of private and family responsibilities, and enable women to participate more equally in the labour market.



One of the challenges arising from a policy focus on work-family reconciliation is that women often pay a high price for flexible working hours, particularly because the issue is regularly viewed as a “women’s issue”. The high rate of part-time work amongst women does result in a persistent part-time pay penalty, with evidence showing that the gender pay gap is significantly wider for women part-time workers. The right to work part-time work is routinely developed as an explicit objective to recruit and retain women.

The European Commission’s Joint Employment Report (2011) has highlighted the barriers to gender equality resulting from involuntary part-time work among women, resulting from inadequate childcare facilities and a growing demand for care of older and disabled people. Keeping a profile on gender equality and making better use of women’s talents and skills is a central objective of the Europe 2020 strategy, the EU’s growth strategy for the coming decade.

Reconciliation policies have gained importance in many Member States in recent years as a tool for gender equality and in responding to economic and demographic challenges. The ETUC and affiliated unions have for many years campaigned for policies to enable women and men combine good quality work with parenthood and other caring responsibilities as a prerequisite for gender equality. A core issue raised by the ETUC is that women must be able to earn an income that gives them economic independence without being penalised for being mothers and carers, while men must also be given the opportunities to balance their work and family life.

However, few men take parental leave or work part-time. There are variations across the Member States, with the amount of time spent on unpaid work being

### THE GENDER TIME GAP

Women’s and men’s working time differences result in a gender time gap. Currently the overall employment rate for women in Europe is 63%, compared to 76% for men aged 20-64. Along with this lower employment rate, across the EU more than three-quarters of part-time workers are women, and 15% of women work in temporary jobs with fixed-term contracts.

- On average 31% of all women in employment in the EU work part-time, compared to only 8.3% of men (European Labour Force Survey).
- The 5<sup>th</sup> European Working Conditions Survey (carried out by Eurofound in 2010) found that overall women generally work shorter working hours

than men, with 20% of women in employment working fewer than 20 hours a week, as against 7% of male workers. The survey also found that men would prefer to work shorter working hours to enable them to participate in family life more.

- Women’s opportunities for progression and higher pay in the workplace are affected by their family responsibilities. The employment rate for women with dependent children is only 62.4% compared with 91.4% for men with children. More than three-quarters of part-time workers are women (76.5%).
- Women spend an average of nearly four hours per day on domestic work, compared to two hours by men. For this reason the social distribution of working time and personal time are critical issues for women with care responsibilities.

more equal between women in men in Scandinavian countries and the Netherlands. While men work longer hours than women in the workplace, women's paid and unpaid working hours combined are significantly longer than men's. For example, female part-time workers work more total paid and unpaid hours per week than male full-time workers.

From a gender equality point of view, increased choice to have flexibility in working hours can enable workers to reconcile their work with their family and personal life. However, it can also have an adverse effect in that the main form of flexibility among women is part-time work. Part-time work is typically concentrated in lower skilled and low paid sectors of the economy, which provide few opportunities for training and career development.

There are different approaches to reconciliation policies across Europe. In some Member States, for example, the UK, Germany and the Netherlands, the focus has been on making childcare provision more available to working parents; while in others extending rights to parental leave, particularly for fathers has been introduced, for example, in Sweden, Greece, Lithuania and Spain. There are also variations across Member States with regard to legal entitlements to flexible working hours and part-time work; some of which provide entitlements for all employees, for example, as exists in the Netherlands and Germany, while others are specifically targeted to parents and carers, for example, in the UK.

#### **CONFERENCE WORKSHOP : RECONCILING WORK AND PRIVATE LIFE**

The workshop started with two presentations concerning the reconciliation of work and private life: one on the impact of weekend and Sunday work in commercial sector, and the impact on stress of women who have more than one job.

From the perspective of Eurocadres, the exclusion of senior managers from scope of WTD is a hidden opt-out. In some cases people are promoted or their job content is changed in order to undermine the protection afforded under the WTD. Managers are in general in a very vulnerable position and need to be protected against themselves and the demands of the organisation. This culture impacts on women with care responsibilities who may be prevented from taking up senior positions in the workplace because of a requirement to work long hours.

It is essential to avoiding an individualistic approach and embrace collective approach. Agreements can re-

sult in some interesting initiatives. For example in the commercial sector there have been a number of examples of agreements that have led to a win-win for the worker and the employer. The experiment in Norway to introduce a system that enables workers to request reduced working hours has had a positive impact in increasing productivity and reducing absenteeism.

The workshop discussion focussed on the following points:

- Stress at work is often a result of unpredictability of working hours. It is important to have compulsory rest times and to enable workers to have sufficient basic pay to live on, so that they are not forced to work longer hours.
- Trade unions have been particularly important in defending the concept that there should be at least one free day off every week. Family values should be enhanced and Sunday protected as a family day.
- Work-life balance is a societal issue. Trade unions have to take bold positions in fighting against a dominant culture in business to reduce and limit the regulations on working time.

# The case for a strong and modern Working Time Directive (WTD)



**“The economic crisis has led to a demand for more flexibility, and we also have to ensure that workers have security. As a European trade union movement we have been looking at how to change the approach in the future; this is now the second phase of consultation on the future of the WTD and it has very important implications for trade unions” (Jozef Niemiec, ETUC Confederal Secretary).**

\* Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time and Council Directive 2003/88/EC of the European Parliament and the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

The Preamble to the WTD states that “The improvement of workers’ safety and health at work is an objective which should not be subordinated to purely economic considerations”. The WTD establishes minimum health and safety requirements on working time. The original Directive 93/104/EC, adopted in 1993, was amended in 2000 by Directive 2000/34/EC and the two have now been consolidated into Directive 2003/88/EC\*. The WTD Directive covers :

- Maximum weekly working time of 48 hours on average, including overtime
- Minimum of four weeks paid annual leave
- A rest break if the working day is longer than six hours
- Minimum rest period of 11 consecutive hours in each 24 hours period,
- Weekly rest of minimum uninterrupted rest period of 24 hours plus the 11 hours’ daily rest
- A maximum of eight hours’ night work, on average, in each 24 hours period

The minimum requirements of the WTD are binding for all Member States of the EU and are important in preventing employers from getting a competitive advantage by putting pressure on workers to accept long and/or irregular working hours. The current Directive is already very flexible and establishes a maximum 48-hour working week, but permits working time to be averaged out over four months, thus allowing working weeks of more than 48 hours to be compensated by shorter working weeks.

In addition, the WTD includes two far-reaching derogations, allowing for almost unlimited extension of working hours :

- The four-month reference period can be extended to one year, but only in specific cases, on the basis of collective agreements.
- Member States are allowed to introduce legislation which opens the possibil-

ity not to apply the maximum 48-hour limit at all, on the basis of voluntary agreements with individual workers: the so-called 'opt-out'. The Commission was under a legal obligation to re-examine the latter within seven years of the directive's implementation in November 2003. Since then the ETUC has demanded the deletion of the individual opt-out, in line with the Treaty obligation to limit maximum working hours for all workers in the EU.

The first attempt to amend the WTD took place through the Commission's 2004 proposal on the individual 'opt out' clause. This was also an opportunity to address and clarify the issue of on-call time in the Directive, following ECJ judgments on the issue (see box below). Following several years of deadlock, a common position on the Directive was agreed by the Member States in 2008 in the Employment, Social Policy, Health and Consumer Affairs Council (EPSCO). The June 2008 Council Agreement contained three main proposals:

- To keep the individual 'opt-out' in the Directive, enabling employers to agree with individual workers working hours beyond the maximum working hours of 48 hours a week in the Directive. In particular, the 'opt out' clause had been promoted by the UK along with a number of other Member States.
- To define so-called inactive parts of on-call duty as not being working time, even when the worker has to be available in the workplace. This was on the basis that on-call working time would be divided into 'active' and 'inactive' periods
- To extend the reference period for counting the average maximum working week of 48 hours from four to 12 months, without any reference to proper safeguard provisions, such as collective agreements

At the time, and since then, the ETUC has argued that these provisions are regressive and undermine working conditions and trade union rights to collective bargaining (ETUC, 2011, 2009 and 2005). Moreover, the 2008 position of the Council did not take into account the proposals made by the European Parliament in its first reading. This led the European Parliament, in the second reading in 2008, to reject the common position of the Member States. The Working Time Directive was referred to the conciliation committee in early 2009. However, this was unsuccessful and the Directive was not revised.

### **Opt-out from the Working Time Directive**

Trade unions have always been strongly opposed the opt-out, as being detrimental to the health and safety of the workers and the public. In many countries it is argued that the opt-out is used in order to remedy to the problem brought about by the on-call situation.

**WHO IS USING THE OPT-OUT?**

Currently five Member States allow the use of the opt-out in any sector/activity (UK, Malta, Cyprus, Estonia and Bulgaria).

Eleven Member States allow the use of the opt-out, but only in the health sector and in jobs that make extensive use of on-call time (Belgium, Czech Republic, Germany, Spain, France, Hungary,

the Netherlands, Poland, Slovenia, Slovakia and Latvia).

A further eleven Member States state that they do not use the opt-out (Austria, Denmark, Finland, Greece, Ireland, Italy, Lithuania, Luxemburg, Portugal, Romania and Sweden).

Source: Deloitte (2010)

In some cases trade unions have reluctantly agreed to the individual opt-out on the basis that it is regulated by collective agreement, as exists for, in the Netherlands and Germany. It is unclear what actual use is made of the individual opt-out as both the European Commission's own report on implementation of the Working Time Directive and the impact assessment carried out by Deloitte reveal the failure on the part of both employers and public authorities to collect and monitor data. However, the Deloitte report highlights the concern about the impact of long working hours on health and safety: "It can thus be concluded that even for those working long hours *voluntarily*, the risk of health problems will increase as the numbers of hours they work goes up".

**On-call work**

Implementing the Working Time Directive and the European Court of Justice (ECJ) rulings on on-call time at work (SIMAP, Jaeger, Pfeiffer and Dellas) have posed major challenges to workers, particularly in the health sector. While there have been positive developments in some countries, as shown above in the example of the 'Hospital at Night' initiative for doctors in the UK, the problem in several countries is the widespread use of on-call arrangements at the workplace. Staff shortages have made work reorganisation difficult to achieve. In practice this means that some workers exceed the 48-hour maximum working week when on-call hours are included.

**"As pressure mounts from governments to do more with less, public service workers are being called on to work harder and longer as jobs are cut and services threatened. A weaker Working Time Directive will only allow governments and employers to intensify that pressure...EPSU would set as minimum requirements for negotiation the abolition or phasing out of the individual opt-out, the codifica-**

**tion of the SIMAP, Jaeger and Dellas rulings into the Working Time Directive, the need for compensatory rest to be taken at the earliest opportunity and retaining collective bargaining as the requirement for any extension of reference periods".**

EPSU (2011) response to the Commission's second stage consultation

### ON-CALL: THE SIMAP, JAEGER, PFEIFFER, AND DELLAS CASES IN THE EUROPEAN COURT OF JUSTICE (ECJ)

ECJ judgements have been important in defining on-call work as working time. Compensatory rest time must be taken immediately after the working period. The judgements were not widely welcomed by some Member States who as a reaction applied the opt-out to cases of on-call working time in areas such as doctors working on call in hospitals.

The SIMAP judgement (3 October 2000, C-303/98) concerned a case brought before the ECJ on behalf of a group of Spanish doctors. The ruling declared that all time spent resident on-call would count as working time and the ECJ clearly stated, by referring to the link between on-call work and the health and safety objective of the WTD, that time spent on-call by doctors in primary health care teams must be regarded in its entirety as working time, and where appropriate as overtime, if these doctors are required to be at the health centre. If they must merely be contactable at all times when on call, only time linked to the actual provision of health care services must be regarded as working time: *“the objective of the Directive is to ensure the safety and health of workers by granting them minimum periods of rest and adequate breaks. (...) to exclude duty on-call from working time if physical presence is required would seriously undermine that objective.”*

The ECJ judgement Jaeger (9 September 2003, C-151/02), concerning the application of on-call within the UK National Health Service, followed the SIMAP line. The ECJ ruled that the Directive does not allow a Member State to classify in its legislation periods of inactivity of a worker in the context of such on-call duty as rest. *“Directive 93/104 pre-*

*cludes national legislation (...) which treats as periods of rest the periods of on-call duty during which the doctor is not actually required to perform any professional task and may rest but must be present and remain available at the place determined by the employer with a view to performance of those services if need be or when he is requested to intervene. (...) In fact that is the only interpretation which accords with the objective of Directive 93/104 which is to secure effective protection of the safety and health of employees by allowing them to enjoy minimum periods of rest”.*

On the issue of compensatory rest, the ECJ said: in order to make use of the derogation possibilities of article 17 par. 2 of the Directive (which allows derogation of the 11-hour daily rest for instance for health care workers) *“a reduction in the daily rest period of 11 consecutive hours by a period of on-call duty performed in addition to normal working time is subject to the condition that equivalent compensating rest periods be accorded to the workers concerned at times immediately following the corresponding periods worked.”*

In the Dellas case (Abdelkader Dellas and others v Premier Ministre, European Court of Justice, 1 December 2005) the ECJ ruled that the French system was incompatible with the Directive. Mr Dellas’s periods of on-call duty at the workplace should have been taken into account in their entirety when calculating maximum daily and weekly working time permitted by the directive. Citing earlier decisions (SIMAP and Jaeger), the ECJ ruled that on-call duty performed by a worker where they are required to be physically present on the employer’s premises must be regarded in its entirety as ‘working time’, regardless of the work actually done.

### FINDING ALTERNATIVES TO THE OPT-OUT IN THE HEALTH SECTOR

The German Working Time Act allows individuals to work up to 66 hours a week where there is regular use of on-call time. This has to be subject to a collective agreement and the written permission of the individual affected. However, some German hospitals have chosen not to make use of the opt-out because they find it is more effective not to do so. Guidance on working time organisation in hospitals produced by the national guidance committee

on health and safety (LASI) in 2009 noted that traditional forms of organising working time, with long periods of on-call time were no longer appropriate and that “many hospitals have therefore modernised the way they organise working time and are well on the way to working time models that are both in line with the legislation and appropriate to the workplace.”

(Arbeitszeitgestaltung in Krankenhäusern, LV 30, Länderausschuss für Arbeitsschutz und Sicherheitstechnik, May 2009)





The UK Working Time Regulations allow individuals to opt-out of the 48-hour weekly limit without restriction. In 2009 maximum average working week for all junior doctors came down to 48 hours in 2009. A survey by the British Medical Association in 2010 found that 12.2% of junior hospital doctors had been asked to sign an opt-out, of whom 32% refused to sign. In practice, the opt-out is not widely used in the UK health sector because staff rotas are organised around a 48-hour week system. As a result it is more difficult to run rotas based on a longer working week. One initial concern with the 48-hour limit was that medical training of junior doctors would suffer. However, a recent expert report found that

training could be enhanced by redesigning services around a 48-hour week, and in addition the quality of care could be improved. As the report noted some health organisations “have engaged in redesigning services, or are addressing reconfiguration and networking solutions. These result in safer, better care to patients, and enhanced quality of training. In the current economic climate reconfiguration is an important way of making better use of scarce resources.”

(Time for Training: A Review of the impact of the European Working Time Directive on the quality of training by Professor Sir John Temple, May 2010)

### Review of the working time Directive

On 24 March 2010, the Commission adopted a Communication on the review of the WTD, as a first stage of consultations with the EU social partners on the ‘possible direction of EU action regarding the Working Time Directive’ (European Commission 2010a). The Commission’s consultation paper proposed that a comprehensive review of the WTD be carried out ‘to reflect broadly on the kind of working time regulation the EU will need in order to cope with the challenges of the 21<sup>st</sup> century.’ In July 2010 the ETUC submitted its unchanged position to the Commission: an end to the opt-out; to keep the rules on the four-month reference period; to codify ECJ jurisprudence on on-call work in the workplace; and to clarify that the Directive must be applied ‘per worker’ (ETUC 2010). On 21st December 2010 the Commission launched the second stage of consultation with workers’ and employers’ representatives at EU level on the content of the revised WTD and to ask the social partners at EU level if they wished to enter into negotiations on the WTD.

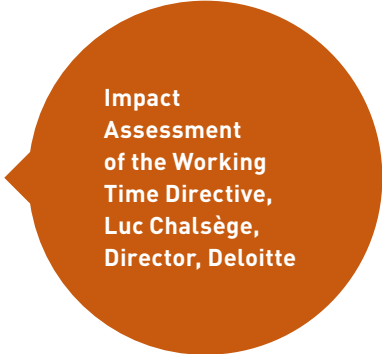
In 2010, the Commission published three reports to coincide with the second stage consultation. The first report examined the legal implementation of the Working Time Directive in Member States (European Commission 2010b). This report showed significant differences and problems with conformity of national legislation with the WTD. The second report reviewed the outcomes of the first stage of consultations (European Commission 2010c). The third was a detailed review and assessment of the economic and social impacts of working time, carried out by Deloitte for the European Commission (Deloitte 2010). The report pointed to substantial evidence of the negative impact of long working hours and of weekend and night work on workers’ health and well-being.

Luc Chalsège provided a detailed overview of the report of the Impact Assessment of the Working Time Directive, carried out for the European Commission in 2010. The study consisted of five sub-studies covering emerging developments in the world of work, health and safety aspects of working time, impact of the Working Time Directive on Business, impact of the Working Time Directive on public services, and the use of the opt-out. The study had the objective to take account of changing needs and expectations of workers, business and citizens, to addressing problems of interpretation and application of the Directive, and to ensure effective protection of workers' health and safety. This was carried out to provide an evidence base for the Commission in the design of legislation that could reconcile conflicting interests and emerging trends.

The context is that it is difficult to balance health and safety on the one hand, and a competitive economy on the other hand. In the recent past there has been a tendency to regulate and reduce working time. Factors influencing working time are increasingly complex. Changing patterns of work arise due to the emphasis on work-life balance, larger numbers of part-time workers, technology developments, the move towards a 24/7 service economy, and globalisation. The trend to more diversified and atypical working patterns is likely to continue in the future.

Luc Chalsège stated that the overall finding from the Deloitte report is that there is clear evidence that long working hours have a negative effect on health, safety and work-life balance of the worker. Accident risk increases once working time exceeds 7-9 hours per day; the health and safety effects may be stronger in onerous activities, or where rest breaks are postponed. As a result a daily rest break of 11 hours seems to be the minimum and the appropriate maximum limit for weekly working times depends on the degree of health impairment which is deemed acceptable. In particular working unusual hours increases the risk to safety, health and work-life balance, especially in combination with long working hours. In this sense additional compensatory time off appears justified in the case of unusual working time arrangements and short reference periods would avoid an undue accumulation of negative effects.

Macro-economic analysis and business surveys show no clear pattern but demonstrates a positive impact from decreased yearly working hours on productivity in two sectors analysed. There are gaps in knowledge and compliance among European enterprises which reflect the concerns of business about the effect of working time regulation on competitiveness and the ability to deal with seasonal fluctuations. This element of the study found strong support from enterprises for allowing working time measurement over 12 months rather than 4 months, while some companies where the opt-out is in use wanted to see it continued.



Impact  
Assessment  
of the Working  
Time Directive,  
Luc Chalsège,  
Director, Deloitte



The study found a relatively low use of on-call time at the workplace by the private sector. Among companies which reported that some of their workers work more than 48 hours per week, some did not ask for the worker's consent.

The study in the public sector covered hospitals, residential care, firefighters and police in a selection of Member States. Broad support was found for the health and safety objectives of the WTD. However, public sector budget constraints and skills shortages have resulted in governments and/or employers looking for ways to reduce the impact of the Working Time Directive and the SIMAP/Jaeger rulings, for example, through a greater use of temporary staff, non-compliance and the individual opt-out. There has been limited monitoring and evaluation of the opt-out in Member States. Eleven Member States do not use the opt-out.

Luc Chalsège concluded that there is no direct cause and effect between the use of opt-out and the presence of longer working hours, however, it is clear that some opted-out workers are working extremely long hours. In the public services/on-call services, the opt-out is primarily used as a tool for flexibility in particular in order to provide solutions for the specific requirements of 24-hour public services and to tackle shortages in human and financial resources. Overall there is a need for more data on implementation and enforcement of the Directive.

EU commitment with regard to the regulation of working time and plans for the revision of the WTD : Armindo Silva, Commissioner for Employment, Social Affairs and Social Inclusion

**“How do we respond to this situation? We have no illusions that it will be easy to resolve these differences about changes to Working Time rules. We all recall the breakdown of previous discussions in 2009, because the Council and Parliament could not reach agreement. However, working time is an issue which really matters to millions of workers and their families, public services and employers right across the EU. I know the Commission is determined and committed to continue, with patience and an open mind, to find solutions which could enjoy broad support”.**

**Armando Silva** stated that the present debate was launched by the publication in December of a second consultation paper addressed to the European social partners. The paper provides an outline analysis of various working time challenges and trends, and asks for the social partners' views on a series of options for possible change to the current Working Time rules. Simultaneously with the adoption of the consultation paper, the Commission published a report on the implementation of the Directive and an external evaluation study focusing on the economic and social impact of the EU Directive. With this package the Commission wanted to put at the disposal of all stakeholders the most up-to-date and reliable information on EU working time patterns and rules, in order to endow everybody with the same evidence basis. This was a point correctly made by ETUC and other stakeholders in their replies to the first consultation. As a result he argued that with these and other studies, the debates will rely more on detailed evidence, and less on re-stating established positions from the previous negotiations. This is essential to finding more imaginative, broad-based and sustainable solutions.

As regards the Commission's examination of the way the member States apply the Directive, “the first thing I would like to state, is that, contrary to a widespread misconception, the working time of a large majority of EU workers is actually protected by minimum standards that are based on the EU legislation.

These standards are clearly inspired by the European Charter of Fundamental Rights and fully respect the ILO Conventions”.

However, the analysis identified a number of serious problems that is urgent to tackle : non-compliance with EU standards leave certain categories of workers deprived of protection (because they are wrongly excluded from transposition, or have inadequate rest); clear problems with the implementation of the SIMAP-Jaeger-Dellas jurisprudence in 24-hour public services in several member States; swift and broad proliferation of the opt-out, without adequate monitoring or guarantees; and lack of clarity in the application of some rules (‘autonomous workers’, multiple contracts, public defence and security services).

The first operational conclusion that the Commission has drawn from this analysis is the need to bring clarification to a number of provisions of the Directive in order to make rules more effective and obligations more transparent. The second conclusion is that, on those matters where obligations are clearly defined, it is important for the Commission to pursue their action of control on the implementation of the Directive by using the instruments provided for in the Treaty.

Regarding the revision of the WTD, it is clear from the first round of consultations with European social partners that there is a real need for changes to working time rules, in order to match the profound changes in the world of work during the last two decades. Trade unions rightly highlight factors such as the general intensification of work, the development of precarious work, the persistence of excessive working time and of involuntary atypical shift patterns for certain workers. They also emphasise the need for much better reconciliation of work and family life, in order to attend to the situations where both partners in a couple go out to work, and to support more women to enter and more older workers to stay in work. Employers, equally understandably, point to the very difficult economic environment. They highlight increased competitive pressures, volatile globalised markets with rapidly-fluctuating demand, and increasing expectations of 24-hour availability. Public service employers face specific challenges, in trying to provide the quality 24-hour services that we all expect, when they are faced with major demographic changes and long-term shortages of skilled staff.

The Commission’s objectives are that working time rules need to better match the changes which have been outlined both by workers and by employers. The Directive should both provide more effective protection for workers’ health and safety, and also allow more flexibility for the needs of employers, public services and workers. It is for precisely these reasons that the Commission has approached this review with the intention to make a fresh start. The main purpose of the consultation paper is to present options to social partners and ask for

**“Although there is wide agreement on the need for change, there is much less agreement on what the change should be. There is a strong case for better protection of workers’ health and safety, in the face of the trends identified by unions. There is also a strong case for more flexibility regarding certain working time rules, if businesses and public services are to adapt successfully to current demands. Stakeholders continue to have strongly opposed views on several core issues”.**

their views in order to determine possibilities for broad-based solutions. There are two options: one is the 'status quo', the other is de-regulation at EU level. In striving for solutions, the Commission needs to be grounded in the present reality and not the reality of 2004, when the previous revision was launched. There is a need to respect what is now well consolidated Court jurisprudence on on-call time and compensatory rest, while providing for flexibility for social partners at sectoral or local level to adjust to specific situations. There is a need to take into account the reality of the expansion of the opt-out to 16 member States, as well as the need to afford special protection to workers having accepted to work more than 48 hours in order to prevent risks for health and safety. There is also a need to prevent abuses caused by some slippage in compliance with the current rules, in cases of multiple contracts and excessively wide application of the 'autonomous worker' derogation. The need to take into account the increasingly diversified nature of the workforce with more women, more older workers, more individualised career profiles, by allowing workers a greater role in working time choices. And there is a need to allow social partners to determine or to influence flexible local solutions for distributing working time in response to technological or market challenges.

On the basis of a thorough analysis of the social partners' responses, the Commission will prepare a draft amending proposal for adoption by the Commission in the autumn. The European social partners have a special right under the Treaty to agree on such changes themselves by social dialogue, should they jointly wish to do so, either at cross-industry or at sectoral level. If they do, the Commission will adjust its programme to respect the results of the social dialogue.

#### **CONFERENCE DISCUSSION ON THE COMMISSION'S POSITION ON THE WTD**

- There are new realities in the economy requiring flexible local solutions. However, it is essential that there is a regulatory framework implemented through collective bargaining to ensure that solutions are in the interests of both employers and employees. It is up to the social partners to find solutions, based on protections set out in the Directive.
- The Commission's report is very informative regarding case law and shows that many Member States do not comply with the WTD. For example, in Germany there is a six months reference period, even though the WTD specifies that this should be four months. This is a clear infringement of the WTD.
- There is a lack of information of where the opt-out has been put in place and how many workers have actually signed the opt-out, whether they signed out of their own free will. As a result it is difficult to make an informed decision on the opt-out. It would be much smarter and more effective to implement a legislative approach, rather than requiring employers and the business sector to undertake monitoring of the opt-out.
- It is best if flexibility is agreed between the social partners at the national level and through local agreements. The present WTD puts obstacles in the way of this taking place, and many Member States do not have agreements on on-call working.

**John Monks** started by telling the conference that the controversy over the Working Time Directive goes back to the mid 1980s and the UK question about why Europe should determine when we work. The trade unions got support for a maximum of 48 hours a week and derogations by collective agreement. The opt-out by the UK, when the WTD was introduced as a single market measure, has proved a major stumbling block.

Is the WTD more than a health and safety measure and should it be part of the broader social dialogue? Today the opt-out and the issue of on-call work has become a significant issue for the trade unions. The ETUC's position has hardened as more experiences of workers who have problems with on-call work have come to light. This is a very big issue in the public sector. Many countries have opted out and are in breach of the WTD. The result is that we now have 'ragged and tattered' regulations on working time. This is a political issue and we are conscious that social Europe does not look very good with a Directive that we are unable to resolve.

The ETUC sees it as an advance that the Commission recommends that on-call work should be working time. The ETUC want to see the WTD applied to all workers without exclusions, for example, to workers in the road transport sector. Although too weakly expressed there is potential to include compensatory rest periods and special provisions for Sunday and weekly rest periods. Work-life balance is a big issue for women and many men too. If there is to be a modern approach to working time, this needs to be addressed as an issue, particularly where there are multiple contracts. The UK applies 48 weekly working hours to each worker, while in Austria this applies to each job. The Commission's recommendation that the 48 hour limit is applied to each worker is a good measure to discourage 'double jobbing' under the WTD.

The ETUC's views and position on the revision of the Working Time Directive: John Monks, ETUC General Secretary

"There are mixed views of the Commission's proposals. The least favourable are the proposed changes to the reference period (from four months to twelve months). There should be compensatory periods for people working under pressured time and for retaining the current reference period, with collective bargaining as a precondition. The ETUC's other key objection is the opt-out. We do not see why, in a single market, workers in one country should be induced or forced to work longer hours than colleagues in competitor countries".

#### **ETUC RESPONSE TO THE EUROPEAN COMMISSION'S SECOND STAGE CONSULTATION ON THE WTD**

In responding to the second stage consultation the ETUC drew up a Resolution, adopted by the Executive Committee on 8-9 March 2011 (ETUC 2011). The Resolution reiterated the legal basis of the WTD and the legal obligation to limit working hours to respect health and safety (under Article 31 of Charter of Fundamental Rights), and to progressively reduce long working hours while improvements are being maintained (under Article 151 of the Treaty on the Functioning of the European Union). The ETUC pointed to the evidence from the impact assessment carried out by Deloitte, which had not been

sufficiently taken account of by the Commission and which specifically:

- Warns against legislation to extend the reference period to 12 month periods as this would be "detrimental to health and safety", suggesting that short reference periods would avoid the potential negative effect of long working hours resulted from an extended reference period.
- Recommends that a five day, eight hour, 40 hour working week was conducive to work-life balance. The impact of the opt-out in extending working hours beyond the limits in the current WTD would "result in an increased risk of health impairments".





The Resolution states that the Commission gave insufficient consideration to the ETUC's first stage consultation position and in particular that:

Maintaining the opt-out, extending the reference periods and weakening the position on on-call time and compensatory rest would contradict health and safety principles that are based on solid evidence and research.

As a result the ETUC recommended that, backed-up by the impact assessment, the Commission should:

- End the opt-out from the 48 hour limit on weekly working time;
- Keep the current reference period in place;
- Codify the ECJ jurisprudence on on-call working time in the workplace on the basis that on-call time should be recognised as working time;
- Codify for all workers that the Directive has to apply per worker.

The ETUC recognises that some of the Commission's proposals go in the right direction, but identifies the need for improvements to be taken in certain areas.

These include the need to ensure that all workers are protected by working time legislation, including volunteer fire-fighters; that compensatory rest periods should be granted immediately; that compensatory time for recovery on weekends cannot be replaced by another day off; that work-life balance and gender equality provisions need to be strengthened; that the derogation for autonomous workers should be limited to those in the most senior and executive positions; and that further provisions need to be introduced to extend the principle of working time to multiple contracts held by different employers. The ETUC also confirmed that it would enter into negotiations with the social partners at European level with a mandate which had the following objectives:

- To implement a comprehensive revision of the WTD, which will serve the health and safety of workers;
- End or phase-out of the individual opt-out in the near future;
- To keep the status quo concerning the four-month reference period.
- To ensure compliance of the ECJ judgments on on-call time and compensatory rest.

#### CONFERENCE DISCUSSION ON THE ETUC'S POSITION ON THE WTD

- The WTD lays down standards which have been difficult to apply in some sectors, such as the culture sector. For example, French TV stations have to work with private producers who are contracted to produce programmes. The question is how do we that these producers stick to the rules? It is crucial for trade unions to protect collective agreements, but how do we respond to calls from workers who want over time?
- Working time has slipped down as a priority with a focus today on maintaining jobs. The concern is that as the economy recovers pressure will be put on workers to work longer hours.
- The issue of multiple contracts has become an increasingly important issue. In the UK many workers have two jobs, but how big is the issue? Of the 3.2 mill employees who work more than 48 hours, less than 90,000 have two jobs. The majority of workers are in salaried jobs; more than two million workers do not get overtime for the extra hours that they work.

- Postponing the reset period after long working hours would be very negative. For example, in Norway the police can derogate from daily and weekly working time under a collective agreement. However, the problem is that employers postpone compensatory rest periods.
- There is a clear position on compensatory rest, confirmed by the ECJ that this should follow immediately after working time. This issue is not addressed concretely in the Commission's communication.
- The WTD should not be confused with short working week, which has been introduced as a labour market measure in some countries to secure jobs. In Austria and Germany there is a solid legal base to this and some collective agreements provide for additional bonuses.
- The WTD continues to exclude work in private homes / domestic work from the scope of the Directive, despite demands from the trade unions for this to be included as part of a European strategy.
- In France a labour court decision regarding excessive working time, led the CGT trade union confederation to file a legal case for the introduction of standby provisions for workers, including





a lump sum payment for each day that a worker is on standby.

- The Commission's position is inconsistent and undermines the integrity of the trade union movement. There is no reference to how trade unions are already implementing the judgements on the opt-out and on-call working. The trade union role is also undermined by the proposed extension to the reference period to twelve months and not by

negotiated settlement. These are fundamental rights that are being undermined.

- Long working hours have to be subject of collective bargaining. However, the Commission's policy is of free market liberalism and flexibility in working time. The mindset of European competitiveness is that people have to work longer and be paid less. The commitments of social Europe are not being honoured properly.

The final session of the conference was a roundtable of employer organisations and European Trade Union Federations (Rebekah Smith, Business Europe; Liliane Volozinskis, UEAPME; Ulrike Neuhauser, CEEP; and Carola Fischbach-Pyttel, EPSU).

### Perspective of Business Europe: Rebekah Smith

BusinessEurope has engaged with its member federations on the European Commission's 2nd stage consultation. The view expressed in the last stage of consultation is that working time is critical for the competitiveness of companies and an important element of collective bargaining. Business Europe shares the Commission's view that there have been significant changes in working patterns since the Working Time Directive was first introduced. Key drivers of change are globalisation, increased competitive pressures for companies, significant changes in customer expectations for 24-hour services and the increasing flexibility in models of service delivery from diverse locations across the world. There has been a growth of the service and knowledge intense sectors, where set times and set locations are no longer relevant to all workers. The use of information and communications technology has resulted in work practices becoming more mobile and autonomous.

Work-life balance has become a key issue and employees want more flexible working patterns. Companies have responded to the demand for work-life balance through new working time practices and arrangements, for example, working time accounts, part-time work and career breaks to enable workers to work more flexibly. In responding companies need practical and tailor made solutions, while a modern working time policy requires effective implementation in member states to protect health and safety at work, the original objective of the Directive.

The present situation is not satisfactory regarding on-call work. On-call work largely affects the health sector, but also affects certain jobs in the private sector, for example, in security and private care services. The 'opt out' of the Working Time Directive should be retained as it is necessary in some cases.

Roundtable on perspectives for a modern working time policy and the revision of the WTD

"It is important that working time is adaptable in the market and able to react to fluctuations in demand and competitiveness. The objective is to have working time arrangements that reflect a diversity of needs in a framework of health and safety".

### **Perspective of UEAPME : Liliane Volozinskis**

Working time is a key issue for SMEs at all levels and is a genuine issue for the social partners. It is important to have a fair and level playing field for all companies in a simplified and in a way that is easy to access for small businesses. UEAPME is in favour of certain types of legislation, but legislation should not place an undue burden on SMEs. The current WTD is burdensome and over complex. UEAPME would like to see health and safety as the primary aim of the WTD , but it should also take into account the flexibility required by companies for competitiveness and to enable workers to achieve lifestyle choices. A new WTD is needed to properly reflect changes facing companies, arising from new technologies and with extended opening hours in the service sector. It is an urgent priority to come to definitive agreement on on-call time, compensatory rest and annual leave. It is important to put an end to confusions, particularly in the light of the ECJ judgements on on-call work.

UEAPME wants the reference period for derogation from 48 hours working time to be extended to twelve months. This is on the basis that companies that are not covered by collective agreements are currently unable to access the twelve month reference period under the WTD. By extending the reference period by law, as well as by collective agreements, will enable SMEs to adapt to fluctuations in demand. Significant numbers of SMEs have between four and five workers; having low numbers of staff requires flexibility in working time, which can be facilitated through a longer reference period. Having the 'opt out' included in the WTD is another option for achieving flexibility regarding the reference period. A twelve month reference period would be a way to give more flexibility and reduce the use of the 'opt-out', thereby simplifying the law.

**“Public employers need working time regulations and clarity with regards to flexible working arrangements”.**

### **Perspective of CEEP : Ulrike Neuhauser**

Public employers face a situation where employees increasingly provide flexible services around the clock in order meet the demands of users and citizens for quality services. Examples of this are found in health care, social care and in the utilities. Any revision to the WTD requires a well-balanced approach between health and safety and flexibility arrangements. This can have a positive impact on public services.

Work-life balance is essential today for an ageing workforce and for those with caring responsibilities. There are many flexible working arrangements already in place and the public sector has done very well in this area. The use of the opt-out and on-call work will increase if restrictions on flexibility are imposed in the WTD. Services in education, transport, utilities and care work have to meet user's needs 24/7, and these need to be balanced against the health and safety of employees.

The WTD needs to be responsive to the needs of public employers. The ECJ judgements have led to legal uncertainties and CEEP are not happy with the lack of clarity currently surrounding on-call work. The WTD should aim to prevent misuse rather wholesale opt out and if a proper revision is made to the WTD it will reduce the need for the opt-out. CEEP would like to see a negotiated solution at a cross-sectoral level that takes account of all specificities and general regulation of working time across whole labour market.

### **Perspective of EPSU: Carola Fischbach-Pyttel**

EPSU's position is that it is necessary to fundamentally take a new approach to working time in the 21<sup>st</sup> Century. Everything has changed through globalisation and this confirms the need for strong working time regulations that are effective. Without this there will be polarisation of working time arrangements. We are confronted with a two or even a three-tier workforce typified by long hours and short working hours, part-time contracts, agency work and temporary work contracts, which requires the force of a working time minimum standard at the European level.

The Deloitte report underpins the need for a strong WTD. The perspective is that it is in the interest of workers and third parties to avoid risks to health and safety. For example, the report highlights the risk of long working hours to passengers in the transport and civil aviation sectors. The evidence is conclusive – extended working hours and the 'opt-out' increases the risk of ill health, even to those who voluntarily work extended hours. EPSU argues that there is a need to ensure compliance with the WTD and put an end to the 'opt-out'. In the meantime, the 'opt-out' exists in eleven member states in specific sectors and in five member states there is a country-wide 'opt-out'. Action needs to be taken to address the male long hours culture. In this regard the Deloitte report highlights the need to address work-life balance and the fact that family life is negatively affected by working hours that extend beyond 48 hours a week. The report cautions against extending the reference period as this allows for a greater accumulation of work, and therefore accumulation of fatigue. The Deloitte report also says that there is a need for a modern approach so that the WTD is used to reduce absenteeism and increase productivity. There is nothing in the report that there is an economic reality that working time flexibility is central to European businesses. The European Commission needs to take account of the findings in the Deloitte report and act upon them. This is important for a forward looking approach and a positive approach to employment. We need to be asking the question 'What kind of jobs will there be in the future'.

EPSU and HOSPEEN have agreed a framework of actions for retaining and recruiting hospital staff. The framework aims to address how the sector will in-

**“EPSU strongly believes that we need an effective WTD, based on minimum standards and a level playing field between member states. Our response to globalisation should not be to lower standards”.**



crease jobs in the future, with plans to address the current shortfall in staff arising from the current economic crisis. Cuts in health care are short sighted measures, which have implications for health and infrastructure, while measures are necessary to improve the attractiveness of health care sector as a place to work. The 24/7 service society needs to forward looking and to be strategic in meeting the range of shifts in the hospital sector with benefits of planned and agreed periods of work and rest periods. The Deloitte report has shown the importance of health and safety in avoiding medical errors. The UK 'Hospital at Night' initiative shows how employers and unions have addressed the implementation of the WTD in the workplace with innovative solutions. This has been carried out against the backdrop of the WTD with practical and pragmatic measures introduced in the workplace, and where on-call work is defined as working time.

#### **CONFERENCE DISCUSSION ON THE POSITIONS OF THE SOCIAL PARTNERS**

- There is a need for a clear framework based on equality and protection, and for clarification to reduce the current uncertainty about working time.
- The ECJ clearly defines on-call work as working time; but employers are not willing to see the clarity of this.
- There is a problem resulting from public expenditure cuts, as the private sector is often dependent on public contracts. This contributes to a downward spiral. Pushing standards down at a time of economic difficult works against competitiveness and innovation.
- If the reference period is to be extended to twelve months, this will have implications for women in the hospital sector, particularly at a time when there are cuts in the sector.
- Longer reference periods are not necessary and it is possible to deploy reference periods innovatively, for example, over 26 weeks.
- For an ethical point of view why is it necessary to have an 'opt out' from a Directive that is about health and safety. Opting out distorts competition between member states. Is this something that employers can allow to happen?
- The WTD has to be extended beyond its legal base of health and safety, and we have to make a distinction between flexibility for workers and for employers. Many companies are expected to provide services and goods on 24 hour basis and across different time zones. This requires more flexible organisation of work.
- Essential public services are different from other 24/7 activities. We need to look at where we need flexible solutions to meet market requirements but we have also to consider the impact on communities and families.
- Employers' flexible working arrangements can enable workers to determine for themselves working hours that suit their needs. The quality of work increases and there are benefits for everyone.
- Flexibility needs to take place across different stages of the lifecycle. Families with children have constraints that are different to those faced by older workers, who need want more leisure time.
- A balance between working time and flexibility is essential in adapting to global competition.
- Flexibility has to be seen in a legal context and driven through collective bargaining. Otherwise there is a danger of exploitation.
- Women are the main carers of children and older people. Women need protection under the WTD, not an 'opt-out'. A WTD with an 'opt-out' makes European legislation pointless, as there is no protection.
- In Belgium some of the effective flexible working schemes have been agreed through negotiation. If not flexible working time does not always benefit workers. Workers can lose control over their lives; for example, in large retail companies working time impinges more and more on home life, with irregular hours and short notice given on working times.



## Conclusion

“There are competing priorities for the protection of workers versus enterprises driving competitiveness. The loopholes in the WTD need to be urgently addressed so that minimum requirements exist as a basis for negotiation. We now have to look at the proposed changes to the WTD and decide if there is a basis for negotiation. We have to look at the realities and the Commission’s reports are helpful in showing the real impact of long working hours on health and safety. Working time is a major challenge for trade unions, particularly given the economic crisis and influence of European policies. These all have to be integrated into other policies regarding wages and employment measures. There is now a great deal of pressure because of austerity measures and these will bite hard. All of this guides our choices and we need to defend workers as our first priority”.

**Józef Niemiec**

ETUC Confederal Secretary,

summing up

the Working for Better Times conference

## References

**Deloitte (2010)** *Study to support an Impact Assessment on further action at European level regarding Directive 2003/88/EC and the evolution of working time organisation*. Final report, Commissioned by European Commission DG for Employment, Social Affairs and Equal Opportunities, 21 December 2010, <http://ec.europa.eu/social/main.jsp?catId=706&langId=en&intPageId=205>

**EPSU (2011)** EPSU Executive Committee, 13-14 April 2011, *European Commission's Second Phase Consultation on Revising the Working Time Directive* <http://www.epsu.org/r/152>

**ETUC (2011)** *The Working Time Directive: Limitation of working hours and greater influence of workers for the benefit of healthier working lives*. ETUC Resolution. Approved at the Executive Committee, 8-9 March 2011 <http://www.etuc.org/a/8483>

**ETUC (2010)** *The Working Time Directive: Limitation of working hours and more influence of workers, for healthier working lives*. Position of the ETUC on the Communication of the European Commission of 24 March 2010, being the first stage consultation of the social partners at EU level on the review of the Working Time Directive, approved by the ETUC Executive Committee, Brussels, 3 June 2010 <http://www.etuc.org/a/7350>

**ETUC (2009)** ETUC Executive Committee 8 July 2009: *Declaration on the Working Time Directive* <http://www.etuc.org/a/6361>

**ETUC (2008)** Working Time Directive <http://www.etuc.org/a/5548>

**ETUC (2006)** *Statement: Revision of the Working Time Directive*. Statement adopted by the ETUC Executive Committee at their meeting held in Brussels on 5-6 December 2005. <http://www.etuc.org/a/1839>

**ETUC** *Reconciliation of Work, Family and Private Life* <http://www.etuc.org/r/1348>

**ETUI (2010)** ETUI Policy Brief, Collective Bargaining Responses to the Economic Crisis, by Vera Glassner and Maarten Keune <http://www.etui.org/research/Media/Files/EEEPB/2010/1-2010>

**Eurofound (2010a)** *Changes over time – First findings from the fifth European Working Conditions Survey* <http://www.eurofound.europa.eu/surveys/ewcs/2010/index.htm>

**Eurofound (2010b)** *Extending flexicurity – the potential of short-time working schemes: ERM report 2010* [www.eurofound.europa.eu/publications/htmlfiles/ef1071](http://www.eurofound.europa.eu/publications/htmlfiles/ef1071)

**Eurofound (2010c)** *Industrial relations developments in the commerce sector in Europe Overview report*, Eurofound: Dublin <http://www.eurofound.europa.eu/publications/2010/81/en/1/EF1081EN.pdf>

**Eurofound (2007)** Working conditions in the European Union: The gender perspective. *Results of the 4th European Working Conditions Survey*, European Foundation for the Improvement of Living and Working Conditions: Dublin <http://www.eurofound.europa.eu/publications/htmlfiles/ef07108.htm>

**Eurofound (2005)** 2004-5 *European Establishment Survey on Working Time and Work-Life Balance*. European Foundation for the Improvement of Living and Working Conditions: Dublin <http://www.eurofound.europa.eu/areas/worklifebalance/eswt.htm>

**European Commission (2010a)** *Reviewing the Working Time Directive (Second-phase consultation of the social partners at European level under Article 154 TFEU)*

**European Commission (2010b)** *Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on implementation by Member States of Directive 2003/88/EC ('The Working Time Directive')*, COM(2010)802/3, Brussels <http://ec.europa.eu/social/main.jsp?catId=329&langId=en&newsId=964&furtherNews=yes>

**European Commission (2010c)** *Detailed overview of the replies received from the social partners at European level to the first-phase consultation under Article 154 TFEU on Reviewing the Working Time Directive*, Brussels <http://ec.europa.eu/social/main.jsp?catId=329&langId=en&newsId=964&furtherNews=yes>

---

**European Commission (2010d)** *On Retail Services in the Internal Market Accompanying document to the Report on Retail Market Monitoring: "Towards more efficient and fairer retail services in the Internal Market for 2020" {COM(2010)355 final}*, Brussels, 5.7.2010 [http://ec.europa.eu/internal\\_market/retail/docs/monitoring\\_report\\_en.pdf](http://ec.europa.eu/internal_market/retail/docs/monitoring_report_en.pdf)

---

**Glassner V and Galgóczi B (2009)** *Plant-level responses to the economic crisis in Europe*, ETUI Working Paper <http://www.etui.org/research>

---

**Hill J, Grzywacz J G, Allen S, Blanchard V L, Matz-Costa C, Shulkin S, and Pitt-Catsouphes M (2008)** "Defining and conceptualizing workplace flexibility" in *Community, Work and Family*, Volume 11, No.2, May 2008, 149-163

---

**Holtermann A, Mortensen OS, Burr H, et al. Heart (2010)**.10.1136/hrt.2010.197145 <http://press.psprings.co.uk/heart/september/heart197145.pdf>

---

**Johnson A A, Shannon L L and Richman A L (2008)** "Challenging common myths about workplace flexibility: Research notes from the multi-organizational database, in *Community, Work and Family*, Volume 11, No.2, May 2008, 231-24

---

**Kerkhofs M, Román A and Ester P (2010)** *Flexibility profiles of European Companies*, European Company Survey 2009 Eurofound / Luxembourg: Publications Office of the European Union, 2010

---

**Keune M and Glassner V (2010)** ETUI Policy Brief, *Collective Bargaining Responses to the Economic Crisis*, ETUI Policy Brief <http://www.etui.org/research/Media/Files/EEEEPB/2010/1-2010>

---

**Keune, M (2008)** *Collective bargaining and working time in European overview*, ETUI: Brussels <http://www.etui.org/research>

---

**Plantenga J and Remery C (2010)** *Flexible working time arrangements and gender equality: A comparative review of 30 European countries*, European Commission: Brussels <http://ec.europa.eu/social/main.jsp?catId=418&langId=en&pubId=585&type=2&furtherPubs=yes>

---

**Richman A L, Civian J T, Shannon L L, Hill J E and Brennan R T (2008)** "The relationship of perceived flexibility, supportive work-life policies, and use of formal flexible arrangements and occasional flexibility to employee engagement and expected retention", in *Community, Work and Family*, Volume 11, No.2, May 2008, 183-197

---

**UK Health and Safety Executive (2003)** *Working Long Hours*, HSL/2003/02 [http://www.hse.gov.uk/research/hsl\\_pdf/2003/hsl03-02.pdf](http://www.hse.gov.uk/research/hsl_pdf/2003/hsl03-02.pdf)

---

**UNI Europa (2010)** *Resolution on Sunday and night/ late evening working hours in the Commerce sector*. UNI Europa Commerce Steering Committee, adopted on 18 June 2010 in Copenhagen [http://www.uniglobalunion.org/Apps/UNINews.nsf/vwLkpByld/474D5727938BE3A8C1257769002BC67C/\\$FILE/UNI%20Europa%20Commerce%20resolution%20working%20hours%20EN.pdf](http://www.uniglobalunion.org/Apps/UNINews.nsf/vwLkpByld/474D5727938BE3A8C1257769002BC67C/$FILE/UNI%20Europa%20Commerce%20resolution%20working%20hours%20EN.pdf)

---

**USA NIOSH (2004)** *Overtime and extended work shifts: Recent findings on illnesses, injuries and health behaviors*, Department of Health and Human Resources <http://www.cdc.gov/niosh/docs/2004-143/pdfs/2004-143.pdf>

---

**Virtanen M et al. (2010)** "Overtime work and incident coronary heart disease: the Whitehall II prospective cohort study". *European Heart Journal*, March 2010 [http://www.oxfordjournals.org/our\\_journals/eurheartj/press\\_releases/freepdf/ehq124.pdf](http://www.oxfordjournals.org/our_journals/eurheartj/press_releases/freepdf/ehq124.pdf)

---



avec le soutien de la Commission européenne  
with the support of the European Commission



EUROPEAN TRADE UNION CONFEDERATION (ETUC)

Boulevard du Roi Albert II, 5 - B 1210 Brussels  
Tel + 32 2 224 04 11 - Fax + 32 2 224 04 54/55  
etuc@etuc.org - [www.etuc.org](http://www.etuc.org)