



## **EU Parliament Must Remain Faithful to its Working Time Policies**

### **Social Protection Framework Complies with EU Constitution**

### **EUCDW Demands an End to the Ideological Debate**

#### **Decision of the 9<sup>th</sup> Congress of the EUCDW, 03.09.2005**

The EUCDW welcomes that the decision of the European Parliament about the Working Time Directive reflects the spirit of the Single European Social Area which has been in existence since 1997 and which is based on the principle of providing the same level of social protection to all employees. Taking one's cue from the EU Constitution and its catalogue of fundamental rights that are in principle addressed to each and every EU employee, the abolition of "Opt outs" must remain one of the main targets of the current political initiative. With a view to the working time regulations, the EUCDW would like to emphasise the Constitution's demands for a reconciliation of family and career.

**The EUCDW calls on the Parliament to remain faithful to this objective and to defend its decision of abolishing the opt-out after a maximum period of three years against pressures from the European Commission.**

The EUCDW, however, also welcomes new framework legislation intended to provide the individual member states with urgently required manoeuvring space for flexible solutions.

This applies particularly to

1. On-call duty
2. Working time duration

### On-call duty

*The entire on-call duty time – including its inactive periods – is considered as working time. On-call periods of inactivity, however, can be weighted in some particular way for the purpose of calculating weekly working times, provided this is approved by collective bargaining or other agreements between the social partners, employment legislation or other regulations. Such an approach would still satisfy the requirements of the general health and safety principles.*

The EUCDW has always contended that any period of time during which the employee is bound exclusively by the instructions of his employer (in particular at the place of work) must be considered as working time. The EUCDW therefore welcomes the confirmation of its view by the decision of the EU Parliament. At the same time, it calls upon the social partners and the national legislators to make discreet and responsible use of their freedom to treat this matter flexibly.

### Working time duration

*The current rules instruct the individual member states to legislate that the weekly working time – in respect of reference periods of up to four months – must not exceed an average of 48 hours (periods of longer working hours must therefore be followed by periods of shorter weekly working time). Only Parliamentary decisions and (this was added against the recommendations of the EU Commission) collective bargaining agreements and similar agreements between the social partners – and laws and regulations in cases where employees are not subject to such agreements – are allowed to extend these reference periods to up to 12 months. These regulations / agreements which deviate from the 4-month-rule require the employers to provide the employees with comprehensive information, to consult them and to ensure full compliance with health and safety rules.*

Only in rare cases is the average maximum working time of 48 hours actually reached. The EUCDW therefore welcomes the decision of the European Parliament to reject the proposal of generally extending the reference period to 12 months. It concedes on the other hand that – in view of certain seasonal activities (in the tourism industry, e.g.) the legislators and social partners were rightfully given manoeuvring space for more flexible solutions.

### Balancing the requirements of family and career

The EUCDW welcomes the plans of the EU Parliament to oblige the employers to change their organisation of labour in order to provide opportunities for balancing the requirements of family and career as envisaged by the Constitution. Employees must be given early notice of any change in working patterns; they are also free to request a change of their working patterns and a fair feasibility review. The EU Commission will have to provide progress reports on these matters in five-year intervals.

## **Concluding Assessment**

The EU CDW holds the view that the decisions of the EU Parliament about the Working Time Directive are pointing towards a solution which provides the employees with an important framework of social protection and opportunities for flexible solutions at the same time.

Due to the very ideological nature of the debate, on the other hand, an opportunity was missed of providing the EU citizens with yet more and clearer evidence for the fact that the EU is far more than a Single European Market. This failure was keenly observed by the opponents of the EU Constitution and used for their purposes.

This is why the EU CDW hopes that all those with political responsibilities will try to abandon ideological distortions for the Second Reading in favour of a pragmatic and result-oriented search for viable and consensus-based solutions which comply with the requirements for social protection, the need for flexibility and the imperative of arriving at decisions within structures of subsidiarity (by the social partners of the individual member states).