



**FEDERATION EUROPEENNE DES MEDECINS SALARIES
EUROPEAN FEDERATION OF SALARIED DOCTORS**

Registered Office/Siège

Social :
39, rue Victor Massé
F-75009 Paris/France

<http://www.fems.net>

Presidency:

Dr. Claude Wetzel
Hôpitaux Universitaires
F-67098 Strasbourg/France
Tel +33 3 88 12 70 75 ou 76
GSM +33 6 60 55 56 16
Fax +33 3 88 12 70 74

claude.wetzel@chru-strasbourg.fr

Permanent Secretariat:

Rue Guimard 15
B-1040 Brussels/Belgium
Tel. +32 27 36 60 66
Fax +32 27 32 99 72
e-mail: info@fems.net

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Authors:	Europolitics, Sophie Petitjean		

Working time**Social partners agree to negotiate**

By Sophie Petitjean | Tuesday 15 November 2011

The social partners have finally decided to start negotiations on the revision of Directive 2003/88/EC concerning certain aspects of the organisation of working time, which lays down minimum safety and health requirements for the organisation of working time in respect of periods of daily rest, breaks, weekly rest, maximum weekly working time, annual leave and aspects of night work, shift work and patterns of work.

Following the failure of negotiations between the European Parliament and the Council in 2009, employers – represented by BusinessEurope, the European Association of Craft, Small and Medium-sized Enterprises (UEAPME) and the European Centre of Employers and Enterprises providing Public Services (CEEP) – and the European Trade Union Confederation (ETUC) agreed to take over the dossier. In a 14 November letter, they informed the Commissioner for Employment and Social Affairs, László Andor, that they intended to hold a first round of talks, on 8 December in Brussels. This announcement comes a year and a half after the launch of a Commission consultation with social partners. In accordance with Article 155 of the Treaty on the Functioning of the EU, they now have nine months to reach an agreement, which will then be subject to a Council decision.

UMPTEENTH TRY

The idea of modifying the Working Time Directive was initially raised in 2000. At the time, the Commission wanted to tackle a series of problems which were not resolved by the existing legislation and by the case law of the Court of Justice – in order, namely, to clarify the application of the directive in terms of on-call time in some sectors of activity, to allow more flexibility in the calculation of daily working time and to re-examine exemptions to the 48 hour limit. In 2003, the Commission proposed that the social partners take over the dossier but they refused. The Commission therefore made a new legislative proposal to co-legislators, which was buried in April 2009. The main stumbling block between the two institutions concerned the opt out clause (which Parliament would not hear of) and on-call time (which MEPs wanted considered as working time). About a decade later, the story is repeated, except this time the social partners have chosen to take over the dossier.

The differences in points of view, which oppose the trade unions to employers, are vast. After the second phase of consultation launched by the Commission, the representatives of the employers were in favour of a limited revision of on-call time, compensatory rest period and annual leave. ETUC – whose team has since been renewed – had called for a more global revision. "BusinessEurope has deemed that we had a sufficient common ground to enter into negotiation. On this basis and given the current context, our executive committee has decided to take charge of its responsibility in order to reach the best possible agreement for workers," said Patrick Itschert, deputy general secretary of ETUC. Itschert stressed, however, that the European trade unions would under no circumstances accept a restricted revision of the directive, which did not include a revision of the opt-out while keeping the reference period (during which the average number of hours is calculated). As for BusinessEurope, it believes that "a limited revision would be more sensible and more likely to lead to an agreement". "BusinessEurope wants to solve legal problems caused by the EU Court of Justice rulings on on-call time and paid annual leave/sick leave," said Steven D'Haeseleer, director of the Social Affairs Department at BusinessEurope. Negotiations should continue until September 2012.

The differences in points of view are vast