

EUROPEAN PARLIAMENT

2004



2009

Delegation to the Conciliation Committee
WORKING TIME DIRECTIVE
COD(2004)0209

IPOL-E-CONCILIATION D(2009)16321

Brussels, 18 March 2009

Note for the attention of
Mr. Klaus Welle, Secretary General

Please find attached a record of the Conciliation Committee meeting of 17 March 2009 on the Working Time Directive.

K. BAIER

Copies:

Office of the President:

Ms. K. RUHRMANN, Mr. E. ALPERMANN, Mrs. K. FREDSGAARD

Office of the Secretary General:

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Committee on Employment and Social Affairs:

Mr. P. KONSTANTOPOULOS, Ms. O. CAMASOIU

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RECORD OF THE CONCILIATION COMMITTEE OF 17 MARCH 2009

OUTCOME OF THE MEETING

The Conciliation Committee on the Working Time Directive¹ met in the European Parliament in the evening of Tuesday, 17 March 2009.

After more than five hours of negotiations progress was made on some of the open issues but no agreement for the 'opt-out' could be reached. It was, therefore, decided to resume the negotiations in a second meeting of the Conciliation Committee on 1 April 2009.

MAIN ISSUES

The overall objective of the file is to revise Directive 2003/88/EC on the organisation of working time with a view to bringing Member States' legislation into line with the case law of the ECJ, resolving 'leftovers' from the previous revision and allowing for a better conciliation of personal and professional life.

At this stage of the negotiations, the most controversial issues at stake could be summarised as follows:

Opt-out: The possibility to derogate from the maximum working hours per week (48 hours). The Council seeks to maintain the 'opt-out', subject to stricter conditions. Parliament rejects this approach and seeks to phase it out after a transitional period of 36 months.

¹ The Committee was chaired by Mrs Rothe, Vice-President of the European Parliament and Mr. Nečas, Deputy Prime Minister and Minister of Labour and Social Affairs of the Czech Republic. The delegation of the European Parliament was represented by Mechtild Rothe, Vice-President and Chair of the delegation, Alejandro Cercas, rapporteur; Jan Andersson, José Albino Silva Penada, Edit Bauer, Philip Bushill-Matthews, Elisabeth Morin, Hartmut Nassauer, Jacek Protasiewicz, Ole Christensen, Proinsias De Rossa, Stephen Hughes, Karin Jöns, Elizabeth Lynne, Siiri Oviir, Elisabeth Schroedter, Milan Cabrnoch, Juan Andrés Naranjo Escobar, Ria Oomen-Ruijten, Marie Panayotopoulos-Cassiotou, Csaba Sógor, Geoffrey Van Orden, Anja Weisgerber, Gabriela Crețu, Joel Hasse Ferreira, Luigi Cocilovo, Ilda Figueiredo. The Commission was represented by Mr. Vladimír Špidla, Commissioner.

On-call time: The ECJ ruled in 2003 that the entire 'on-call' time is to be regarded as working time. The Council distinguishes between 'active' and 'inactive' on-call time with only the former counting as full working time. Parliament disagrees with this distinction and considers the entire on-call time as working time (and definitely not as 'rest time').

Multiple contracts: Parliament considers that the application of the maximum working time limits should apply per person and not per contract.

Compensatory rest periods: Parliament seeks to ensure that equivalent compensating rest periods are granted to workers *'following periods spent on duty'* and not just *'within a reasonable period'* as suggested by the Council.

PROCEEDINGS OF THE MEETING

Before the formal opening of the conciliation committee three trilogues (10 February, 18 February, 02 March) and three EP delegation meetings (3 February, 19 February, 03 March) took place.

First trilogue: 6.35 pm - 8.05 pm

The evening of the Conciliation negotiation of 17 March started with a trilogue. Parliament was represented by Mrs. Mechtild ROTHE, Vice-President and Chair of the delegation, and the Members of the negotiating team: Mr. Alejandro CERCAS, Mr. Jan ANDERSSON, and Mr. José Albino SILVA PENEDA. The Council was represented by Mr. Petr NEČAS, Deputy Prime Minister of the Czech Republic. Mr. Vladimír ŠPIDLA, Commissioner, represented the Commission.

The Presidency presented its latest position and underlined the close connection between the main issues 'opt-out' and 'on-call time'. However, the Council did not provide a compromise text on the main outstanding issue 'opt-out'. Parliament's negotiation team was particularly unhappy with the Council text on 'on-call time' which was considered as a step back from earlier discussions in the trilogues. The EP negotiators underlined that unless the Council showed some flexibility on the main issue 'opt-out' a conclusion of the dossier would be very difficult.

First EP delegation: 8.20 pm - 9.50 pm

The EP negotiating team and Commissioner Špidla reported back to the EP delegation and a lengthy discussion followed, in which a number of Members intervened.

The rapporteur proposed three compromise texts to the delegation, inter alia notably on on-call time. The EP negotiation team was mandated to use these texts in the next round of negotiations provided that the Council indicates some flexibility on the 'opt-out'.

2nd trilogue: 10.20 pm - 10.50 pm

The Presidency presented orally some ideas for further compromise which were discussed briefly. The rapporteur presented the thoughts of the EP delegation and provided a 'non-paper' for the further discussions. The EP negotiation team emphasized that the starting point for the discussion in the next meeting of the Conciliation Committee needs to be a new Council position on the 'opt-out'.

2nd EP delegation: 11.05 pm - 11.20 pm

Before opening the Conciliation Committee, the negotiation team informed briefly the EP delegation of the state of negotiations followed by a short discussion.

Conciliation Committee: 11.25 pm - 11.50 pm

VP Rothe, Mr. Cercas, Minister Nečas and Commissioner Špidla welcomed the progress made and the positive spirit of the negotiations. It was agreed to hold a further meeting of the Conciliation Committee on 1 April with the aim of reaching an agreement.

PRESS CONFERENCE

The chair of the EP delegation, Mrs. ROTHE, held a press conference on 18 May 2009 at 10.00 am to inform the media about the outcome of the meeting. The high number of journalists present and the questions raised proved again the enormous public interest in this particular conciliation file.

NEXT STEPS OF THE PROCEDURE

The Conciliation Committee will meet again in the evening of 1 April (in the Council building). In view of the end of the current parliamentary term, any agreement reached in the Conciliation Committee needs to be approved by the Parliament during the May Plenary (4-7 May 2009).
