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**I

REPORT

drawn up on behalf of the Committee on Social Affairs,
Employment and the Working Environment

on the Commission proposal for a Council directive
concerning certain aspects of the organization of working
time

(COM(90) 317 - C3-0326/90 - SYN 295)

Rapporteur: Mr Adrien ZELLER

Part B: EXPLANATORY STATEMENT
OPINION of the Committee on Women's Rights

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= Consultation procedure requiring a single reading

**II

= Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment

**I

= Cooperation procedure (first reading)

= Parliamentary assent which requires the votes of a majority of the current Members of Parliament

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B. EXPLANATORY STATEMENT

1. The question of working time is one of the most fundamental and complex aspects of labour policy. Policy on working time has entered into a new phase, related to economic and technological changes on the one hand and the different expectations of workers on the other. It is also related to the emergence of new constraints, such as the growing impact of the European and international dimension of any decision. Consequently, while certain countries have recently introduced reductions in the number of working hours, others, following social, economic and technological changes, have taken a greater interest in adapting working time in such a way as to allow for greater flexibility and sometimes greater economic efficiency which benefits both undertakings and workers. Considerable changes have been made in recent years, both by law and under collective agreements, in existing practices as regards working time, with governments, employers and workers attempting to strike a balance between flexibility and the need to protect workers.

In view of the above facts, the rapporteur welcomes the Commission initiative which is perfectly in keeping with the spirit and the letter of the Community Charter of the Fundamental Social Rights of Workers and with the Commission action programme on the implementation of the above Charter.

Community action in this field can be justified for three reasons:

- in view of increasing pressure of competition, particularly in the context of the single market, and while the adaptation of working time is a topical issue, it is essential to draw up Community requirements so as to avoid the risk of social 'dumping' and of directly or indirectly jeopardizing the health of employees;
- the second reason is the marked trend towards more shift work and night work owing to the need for competitiveness as well as changes in the production processes of many spheres of activity and industry;
- lastly, in an economically unified area, Community legislation may be desirable in order to foster progress which individual countries may be less willing to achieve; this is also in line with the idea of 'harmonization while improvement is maintained' as upheld by the Social Charter.

2. In its proposal, the Commission has limited itself to tackling certain aspects of the organization of daily and weekly working time and certain aspects of night work, and has deliberately left the Member States and the two sides of industry operating at branch or company level considerable freedom of movement, so as not to predetermine specific organizational options in the broad shift towards destandardizing working time.

It is important to bear in mind, in this connection, that undertakings have many different ways of organizing working time, for example:

- variations in the number of working hours around an average, over a certain period;
- flexibility offered by leave or movable holidays;

- the use of an almost infinite variety of options, for example as regards shift work;
- increasing diversification, in terms of the organization of work to suit individuals, and the conditions for and periods of use of equipment.

3. Broadly speaking, two notions of flexibility in working time lie behind the changes that have taken place in recent years:

- the first sees a close correlation between the reduction and adaptation of working time and may be seen as a new form of job sharing. The main aim of combating unemployment goes hand in hand with the desire for more efficient use of equipment and a wider range of possibilities as regards working hours, thereby making it possible to meet the differing requirements of employees;
- the second ignores the question of reducing working time and focuses mainly on deregulating the way it is organized. There is a risk that it may lead to an increase in insecure conditions of employment.

These developments have led to the coexistence of two trends, the second of which became more pronounced than the first during the most acute period of the crisis: on the one hand, more widespread support for the idea of reducing working hours; on the other hand, a tendency to diversify working hours and methods of organizing working time.¹

4. These trends are also apparent in the series of resolutions adopted by Parliament. In its resolution of 18 November 1983 (OJ No. C 342, 19.12.1983, p. 147) closing the procedure for consultation of Parliament on the Commission proposal for a Council recommendation on the reduction and reorganization of working time, the first concept prevailed, namely, that of job sharing in the fight against unemployment. In November 1986, Parliament in its turn acknowledged the notion of regulated flexibility, while regretting the 'artificial distinction made between the objective of flexibility and reorganization of working time and that of shorter working hours as a form of reorganization of working time' (OJ No. C 322, 15.12.1986, pp. 45 et seq.).

Working hours in Europe²: main trends

5. Two principal patterns emerge from the data compiled by the Statistical Office of the European Communities:

- The figures illustrate the general trend towards shorter working hours over the last decade (Table 1). At the same time, they show that there are wide variations, according not only to the individual countries concerned (35.6 hours in Belgium in 1986 for industrial workers as against 42 hours in the United Kingdom) but also to the sex of workers and the sector of activity;

¹ Jean-Yves Boulin, *Durée et organisation du temps de travail en Europe*, in: *Travail et Emploi*, 4/1989 - No. 42, Paris.

² *Op. cit.*

- However, the figures also show that the decrease in the working week (which went from 39.2 to 37.2 hours on average between 1975 and 1987) must be attributed to a large extent to the development of part-time work (Table 2). In fact, it can be seen that the number of hours worked by full-time employees decreased proportionately less than for employees as a whole and that, for men in particular, the working week in many cases still amounted to over 40 hours in 1987 (41 hours on average for men working full-time).

TABLE 1
WEEKLY HOURS OF WORK OFFERED TO MANUAL WORKERS, ALL INDUSTRIES
(NACE 1-5 except 16, 17)

	EUR 10	Belgique/ België	Danmark	BR Deutsch- land	États Unis	France	Irlande	Italie	Luxem- bourg	Pays-Bas	Royaume Uni
1970	:	42,7	:	44,1	:	45,9	:	42,5	45,0	44,3	:
1975	:	37,1	:	40,9	:	42,4	42,2	41,5	40,9	40,8	41,8
1976	:	38,5	39,3	42,3	:	42,2	43,1	41,6	40,3	41,2	42,2
1977	:	37,1	38,6	42,1	:	41,7	43,4	41,5	39,5	41,0	42,3
1978	:	37,6	38,5	42,0	:	41,3	43,4	39,4	40,2	41,0	42,2
1979	:	38,1	38,5	42,1	:	41,1	43,4	39,7	40,8	41,1	42,0
1980	:	35,7	39,5	41,6	:	40,9	42,3	38,4	40,2	40,8	40,7
1981	:	35,9	37,7	41,3	:	40,6	42,5	38,6	41,2	40,7	41,4
1982	:	34,9	38,0	40,0	:	39,4	41,6	37,5	41,3	40,6	41,4
1983	:	35,1	38,2	41,0	:	39,0	41,0	37,4	41,2	40,6	41,7
1984	:	35,7	38,5	41,2	:	38,9	41,3	37,4	40,1	40,5	42,0
1985	:	35,7	37,9	40,7	:	:	41,1	:	40,6	40,5	42,2
1986	:	35,6	:	40,5	:	:	41,6	:	41,0	40,4	42,0
1987	:	36,0	:	40,5	:	:	:	:	:	40,2	42,5

Source: Eurostat, *Employment and Unemployment 1989*

N.B.: The number of hours of work per week offered by the employer to workers corresponds to that of a normal week (i.e. with no holidays) during the reference period for employees who have not been absent for personal reasons or as a result of strikes. It includes the number of hours worked in a normal week plus overtime, excluding hours not worked for technical or economic reasons and short-time.

TABLE 2

WEEKLY HOURS OF WORK PER EMPLOYEE
(ALL ACTIVITIES)
Men and women

	EUR 12	EUR 10	Belgium/ Dutch	Denmark	FR Oostsch land	GR	España	France	Ireland	Italy	Luxem- bourg	Nedder- land	Portugal	United Kingdom
Full and part-time <input type="checkbox"/> Temps complet - temps partiel														
1983	:	37,6	37,0	35,8	38,7	38,7	:	38,2	39,1	38,5	38,6	36,1	:	35,7
1984	:	:	36,7	33,1	39,0	38,6	:	38,0	38,1	38,1	38,6	:	:	34,9
1985	:	37,4	36,7	33,7	38,9	38,2	:	38,2	39,5	37,8	38,6	35,5	:	35,5
1986	37,6	37,5	36,7	33,8	38,8	38,4	38,4	37,9	39,5	38,1	38,6	:	40,0	35,5
1987	37,4	37,2	36,3	33,8	38,7	37,7	38,1	38,4	37,9	37,9	38,4	33,2	40,8	35,4
Full-time <input type="checkbox"/> Temps complet														
1983	:	40,1	38,5	40,6	41,2	39,5	:	39,9	40,3	39,1	39,8	40,7	:	40,2
1984	:	:	38,2	37,6	41,3	39,3	:	39,9	39,2	38,7	39,7	:	:	39,9
1985	:	40,1	38,3	38,4	41,4	38,9	:	40,1	40,8	38,4	39,7	40,4	:	40,6
1986	40,2	40,2	38,5	38,4	41,3	39,1	:	40,0	40,9	38,6	39,7	:	40,9	40,8
1987	40,1	40,1	38,3	38,4	41,1	38,4	39,1	40,6	39,4	38,5	39,7	39,0	41,7	40,7
Part-time <input type="checkbox"/> Temps partiel														
1983	:	19,4	20,1	21,6	20,7	22,8	:	20,8	20,3	23,4	21,1	18,3	:	17,4
1984	:	:	20,0	16,7	22,1	21,8	:	20,6	18,0	24,6	21,0	:	:	16,6
1985	:	19,4	20,4	19,5	21,2	22,2	:	21,1	18,0	24,7	24,5	18,3	:	16,9
1986	19,5	19,5	20,2	19,7	21,0	23,0	:	21,3	18,5	24,4	23,5	:	18,1	17,1
1987	19,4	19,5	19,8	20,0	21,3	21,8	18,4	21,8	18,3	24,9	22,5	18,2	19,4	16,9

Source: Eurostat, *Employment and Unemployment 1989*

6. From 1980 onwards, the European Trade Union Confederation and the main trade union organizations of the Community Member States have focused on the issue of the 35-hour working week with full pay. However, the move towards the shorter working week appears to be a slow one. There are three explanations for this:

- the opposition of European employers who, in a highly competitive and often difficult economic situation, fear the economic consequences of a widespread uniform reduction in working hours;
- the scepticism of economic experts on the question of whether a widespread uniform reduction in working hours will improve the employment situation;
- the problems encountered by trade union organizations in persuading employees that a reduction in working hours is necessary in order to safeguard employment.

7. The problem of job-sharing was solved in the 1980s and there was also a shift towards different working hours and different work schedules, which appear to be organized along very different lines, such as various forms of shift work, including weekend shifts, annual modulation of the weekly hours of work, a shorter working week, job-sharing, etc. Such arrangements, which came about in the first place as a result of initiatives within undertakings, in most cases by the employers themselves, have also been introduced or given new impetus in certain countries by the government (Belgium), interprofessional agreements (Netherlands and Italy) or agreements between industries (Germany) and the relaxing of certain laws (France).

8. Since 1983/1984, in fact, the notion of job flexibility has been seen in most European countries as a means of achieving greater productivity and, in the longer term, as a solution to employment problems.

9. Lastly, the 40-hour week, which for decades was held up as the goal of progress and then became almost an obsession, has generally been achieved. A connection now emerges between measures to reduce working hours and wage restraint. The reduction of working hours is no longer seen in isolation but in relation to other constraints such as maintaining conditions of competitiveness and, in some cases, creating or maintaining jobs.³

Assessment of the Commission proposal

10. The proposal has to contend with a difficult and indeed contradictory political context, namely, the differing views of the Member States as to whether or not Community legislation in the social sphere is desirable, the fact that situations and practices vary widely according to companies, industries and countries, and the expectations of labour representatives that the Community will take major steps in this field. In taking Article 118a of the Treaty as the legal basis (as Parliament hoped), the Commission has chosen to base its approach on the need to preserve the health and safety of workers. This is a suitable approach which provides new guarantees, since unregulated flexibility based on short-term economic requirements would increase risks for workers. Moreover, laying down minimum requirements does prevent more favourable provisions from being upheld or adopted by either national laws or collective agreements. However, when read in the context of the above-mentioned Article, the proposal probably gives only little encouragement to more favourable provisions for protecting the health and safety of workers. 'Harmonization while improvement is being maintained' appears difficult to achieve if the intention is both to take account of widely varying levels of economic and social development and economic conditions in the Community and at the same time to apply the principle of subsidiarity and the autonomy of the two sides of industry.

11. Although the idea of the Community laying down rules on a minimum daily rest period is in itself an interesting one, it amounts more to a basic guarantee than to tangible progress for the majority of workers, since the proposed minimum daily rest period is 11 hours, which in fact means that it is still possible to work a 13-hour day, since the United Kingdom has no legislation in this sphere.

³ European Foundation for the Improvement of Living and Working conditions,

12. The same applies to the weekly rest period proposed by the Commission, namely, a minimum of one rest day per 7-day period in addition to the 11-hour rest period mentioned earlier. This amounts to a minimum standard rather than to harmonization 'while improvement is maintained', given that 11 Member States already have laws providing for a weekly rest period of 24 hours, and indeed 36 hours in the case of Spain and 44 hours in the case of Luxembourg. Moreover, collective bargaining in the 12 Community Member States has fixed the weekly rest period at 48 hours.

13. On the question of paid annual leave, the Commission simply refers to specific national arrangements, whereas Parliament has in the past called for a minimum of 4 weeks' annual paid leave, and even more in the case of young people under 18 years of age.

14. On the question of night work, the Commission takes the ILO definition as its basis and proposes a maximum working time of 8 consecutive hours and restrictions on overtime. This is undoubtedly a useful approach but it may be asked whether it is sufficient in view of the pace of change taking place in undertakings in this field.

It should be pointed out that the proposal imposes no major restrictions on night work. It is probably desirable that night work should be prohibited in the case of people aged under 18 and that protective measures should be applied to female workers while they are pregnant and after the birth of their child. As regards the information, consultation and participation of workers, the proposal refers to framework directive 89/391/EEC. However, the text should specify that night work may be authorized only after the workers concerned have been consulted.

The Commission also makes provision for exemptions on the grounds of the seasonal nature of certain activities and the need to cope with special temporary situations, and this approach is to be commended. However, special requirements which are a permanent feature of certain activities are another matter, and should not necessarily be invoked as a means of justifying such a wide range of possible exceptions, which may engender practices which run counter to the aim of safeguarding the health and safety of workers.

The discussion and votes in the Committee on Social Affairs, Employment and the Working Environment

15. The rapporteur who wished to improve the Commission's proposal for the benefit of employees, however without departing from the logic of an initial text concerned with 'health and safety', did not have his main amendments taken up by the majority of members of the Committee on Social Affairs.

This majority wanted to use the articles to express everything which could seem ideal for employees' conditions, without paying much attention to the practical difficulties involved in their implementation or to the foreseeable and doubtless often adverse consequences in an open economy on the competitiveness of undertakings and thus on employment.

The text derived from these votes, which is very optimistic with regard to the financial consequences of the various provisions, thus includes:

- a very detailed definition of the concept of working time and night work;
- the move to a 35-hour week by 1 June 1994 and the total compensation for overtime by rest periods ... all with no reduction in salary;
- the banning in principle of night work;
- a special pension scheme for night workers;
- child care structures and the organization of transport at the employer's expense etc..

Moreover, various bureaucratic provisions could eliminate much of the flexibility in the organization of work.

In view of the above and considering that the primary role of the European Parliament especially in the social field is to demonstrate the vital, realistic and practical nature of the Community dimension, the rapporteur who remains firmly convinced of the significance of Community legislation with regard to working time deeply regrets that he has been unable to approve the text arising from the discussions of the Committee on Social Affairs.

Declaration pursuant to Rule 119(3)
made by Mrs Nielsen
on behalf of the Liberal, Democratic and Reformist Group

The LDR Group took part in the vote on the Zeller report about a directive for improving working time so as to contribute fully to the work of Parliament and so as to express a democratic choice.

However, the LDR Group cannot at this stage approve the Zeller report which has been completely marred by the adoption of a series of amendments which make it totally impossible to apply the directive.

These amendments deal in particular with a restrictive definition of night work, of the length of working week, the banning of the principle of night work, the strict regulation of night work and of shift work which in fact would lead to the prevention of these forms of work. This list of amendments is not exhaustive.

On top of this, these amendments make impossible the adoption of the directive on the legal basis of Article 118 A in so far as it deals largely with the rights and interests of workers as seen by Article 100 of the Treaty.

The LDR Group regrets that the Committee on Social Affairs, Employment and the Working Environment has lost its credibility because of the irresponsible manner in which the discussion and votes took place. As a result, our joint responsibility for constructing the Social Europe has unfortunately been totally ignored.

The LDR Group approves, however, with some modifications the directive as proposed by the Commission, which seems to it to be balanced and will attempt to restore the original intention of the proposal when the directive is examined by the European Parliament in plenary session.

OPINION
(Rule 120 of the Rules of Procedure)

of the Committee on Women's Rights
for the Committee on Social Affairs and Employment

Draftsman: Mrs An HERMANS

At its meeting of 30 January 1990 the Committee on Women's Rights appointed Mrs Hermans draftsman.

At its meetings of 30/31 October and 20 November 1990 it considered the draft opinion.

At the latter meeting it adopted the conclusions unanimously.

The following took part in the vote: Crawley, chairman, Domingo Segarra, vice-chairman; Hermans, draftsman; Breyer (for Van Dijk), Gröner, Kostopoulos, Mebrak-Zaïdi (for Belo), Nordmann (for Salema), Rønn, Van Putten (for Maibaum), and Van Hemeldonck (for Vayssade).

I. Introduction

1. The proposal for a directive under consideration (concerning certain aspects of the organization of working time - COM(90) 317 final - SYN 295) comes within the ambit of the Community Charter of the Fundamental Social Rights of Workers (Title 1, points 7, 8 and 19). The recommendations of the action programme for the Charter's implementation include establishment at Community level of minimum requirements for the maximum duration of work, rest periods, holidays, night work, weekend work and systematic overtime.
2. The proposal supplements the framework directive on the introduction of measures to encourage improvements in the safety and health of workers at work (89/391/EEC, 12 June 1989). Measures for specific groups (pregnant women, young people) are to be dealt with in separate directives.

ANALYSIS

1. The proposal deals only with minimum daily and weekly rest periods, annual holidays, certain aspects of night work and shift work. This severely limits its scope and possibilities for application as no rules are laid down for
 - the duration and control of and any compensation for overtime, and
 - maximum working time.Exceptional forms of work such as work on call and at irregular hours are also not covered.
2. There are no rules on maximum working hours (per day or per week). Nevertheless, in its resolution of 15 March 1989 on the social dimension of the internal market (OJ No. C 96, 17.4.1989), the European Parliament called for minimum rules on the upper limits for permissible daily and weekly working hours.
3. The proposal defines night work as work performed during a period of not less than seven consecutive hours comprised between 8 p.m. and 9 a.m. Shorter periods of work are thus not considered to be night work. (Article 2(3)).
4. In the directive the weekly rest period is set at one day in every seven-day period, following the daily rest period, which is set at least 11 hours. It is, however, pointed out that in most Member States the actual weekly rest time laid down by collective agreement is two consecutive days (48 hours). Apart from the question of not losing what has already been achieved, it would be advisable to continue to follow certain rest/work cycles, preferably by allowing the rest periods to fall during the weekend or by organizing the same rest period for the whole organization.
5. Night work is viewed as an easy way of adapting working time to economic necessity. However, because of night work's heavy toll on bodily rhythms and health, special measures are required.

CONCLUSIONS

1. Compared with the legal provisions in force in the Member States (with the exception of the United Kingdom where nothing is laid down by law) and accepted conventions resulting from collective bargaining, the proposal for a directive offers an elementary and extremely minimalist set of rules, mostly falling below current minimum regulations in the Member States.
2. It would have been better to have used the approach of maximum working time rather than minimum rest periods.
3. From the point of view of the individual employee's health and his or her right to family, social and cultural life, weekly night rest periods should be guaranteed. The employee must be given the right to be able to refuse evening, night and weekend work for family and health reasons.
4. Night workers need better protection. Night work is only acceptable if it is voluntary. Employees should be able to go back to day work, on health and family grounds, at any time.
5. The Committee on Women's Rights asks the Committee on Social Affairs, Employment and the Working Environment to adopt the following amendments:

Article 4

Member States shall adopt the necessary measures to ensure compliance, in every seven-day period, with the minimum period of one rest day on average following without interruption the daily rest period as defined in Article 3 calculated over a reference period of not more than 14 days. The Member States shall adopt the necessary measures to ensure that there is no working on Sundays and public holidays.

Article 11

Member States shall ensure that employers take the necessary measures to ensure that changes made to patterns of work take account, according to the type of activity, of health and safety requirements, especially as regards breaks during working hours. Workers must be able to switch to daytime work for health or family reasons.

