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Working Time Directive: EP wants final Conciliation meeting

An agreement on the working time directive proved elusive last night when the EP and Council held their second conciliation meeting. A further, final meeting was proposed by EP negotiators as the last chance to find an agreement.

"The Parliament negotiators got a clear mandate when the full House voted in December last year on the opt-out, on-call time and the issue of multiple contracts – which are the most difficult points between Council and Parliament. We want a comprehensive agreement which respects the mandate given by the plenary – but not at any price", said Mechthild Rothe (PES, DE), EP Vice President and Chair of the EP delegation at the Conciliation Committee.

Further negotiations – EP favours full Conciliation meeting, not informal talks

The Chair of the EP delegation proposed to hold a final meeting of the Conciliation committee on 20-21 April as a last chance to find an agreement. "The directive is too important not to continue trying to find a compromise until the very end of the procedure", she said.

The EU Council Presidency however, has not accepted this proposal. Instead, it is proposing to continue the negotiations in the form of informal "trialogue" discussions, with the decision on whether to convene a further formal Conciliation Committee to be based on whether progress is made in these informal talks.

Parliament's position on working time

In December 2008, the Parliament voted for the phasing out of the opt-out (i.e. the derogations to the 48 hours maximum per week) after a transitional period of three years. However, MEPs proposed a calculation of the 48 hours per week as an average over a period of 12 months to allow flexibility.

On the issue of on-call-time, Parliament decided that on-call time should be regarded as working time, while the Council proposed to make a distinction between the active part of on-call time, to be regarded as working time, and the inactive part which would not.

The Parliament also adopted an amendment stating that the working time should be calculated per worker and not per contract.

Opt-out and on-call time

On these two main points of dispute between the two institutions, the EP negotiation team came up with proposals on the on-call time and the opt-out.

On the opt-out, MEPs reiterated that they adopted an amendment proposing to calculate the 48 hours per week as an average over a period of 12 months to allow flexibility. They are looking for a compromise proposal that would show the way to end the opt-out – which,

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according to the existing directive, was to be reviewed. The EP Delegation yesterday submitted a specific proposal based on the existing directive's provisions on junior doctors, but this was rejected by the Council.

For on-call time, the EP proposed a compromise amendment aiming at considering on-call time as working time but with the inactive part calculated in a different manner. However, MEPs do not accept that on-call time could be regarded as 'rest time', as the Council is suggesting.

Background – Conciliation Committee and the Co-decision procedure

The Conciliation Committee has six weeks, dating from 17th March, to reach an overall agreement in the form of a "joint text". The Working Time Directive is currently on the agenda of the last plenary session of this Parliamentary term, on 4 May 2009.

The Conciliation Committee is composed of one representative of each Member States (ministers or diplomats) and the equal number of MEPs. The Commission also takes part in the proceedings, to help reconcile the positions of the Parliament and the Council.

If the Conciliation Committee does not reach an agreement, or if Parliament or the Council does not approve the "joint text", the proposed legislation falls. This would leave the Commission to draft a new proposal from scratch. In addition, the new legislation has to take into account the rulings of the European Court of Justice, which states that on-call time should be considered as working time.

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