

EPSU General Circular GC N° 8 (2017)
To all EPSU affiliates, Executive
Committee and Standing
Committee members
To the Working Time Advisory
Group members

Ref.: JWG/RP/sd
Contact person: Richard Pond

Brussels, 20 June 2017

Dear Colleagues,

Working time: Responding to the European Commission's Interpretative Communication

The European Commission has issued an Interpretative Communication on the Working Time Directive (WTD). This provides a summary of some of the main case law of the European Court of Justice (ECJ) and includes some guidance from the Commission on aspects of the Directive that have not been subject to ECJ rulings. By issuing the Communication the Commission has indicated that it is not intending to revise the WTD and is putting emphasis on more effective implementation and enforcement.

In the past EPSU and the ETUC have called for a revision of the WTD, the position taken in early 2015, at the time of the most recent consultation carried out by the European Commission, was that it was better to stick with the existing Directive rather than risk a revision process that many feared would end with a weaker protection for workers. In this respect, the decision of the Commission can be seen as positive although this very much depends on our evaluation of the Communication and the Commission's commitment to better enforcement.

Attached is a short note from EPSU which examines the Communication in terms of some of the main elements of the WTD that have been of most concern for trade unions – on-call time, compensatory rest, autonomous workers, reference periods, concurrent contracts and the individual opt-out. Also attached is a legal assessment from the European Trade Union Institute which covers these and other issues.

While there are positive elements of the Directive both EPSU and the ETUI raise concerns about some aspects of the Commission's approach and its interpretation of ECJ rulings. However, the Communication is seen as a final document by the European Commission and so is not open to any kind of consultation process or amendment. It remains to be seen whether and how the Commission will respond to any challenges to the way it has presented the ECJ rulings and interpreted other aspects of the Directive.

EPSU is organising a **meeting in Brussels on 26 October** to discuss the Communication and the other main document published by the Commission, the Implementation Report which gives details of countries which have been found not to have implemented the Directive correctly (see attached ETUC discussion paper which provides a list of countries and problems with the Directive).

The meeting will provide an opportunity to discuss both documents and develop an EPSU response and assessment which will be presented to the Executive Committee at the end of November. Part of that response will be about how EPSU and its affiliates could take advantage of the Commission's commitment on enforcement to highlight problems in particular countries and put pressure on the relevant national governments to better implement the Directive.

We will invite a representative of the ETUC to set out their position and also a representative of the Commission to respond to questions about the content and status of the Communication and plans for more effective enforcement. We will also use the meeting to discuss working time from a broader perspective and there will be a colleague from the ETUI who will present a report on working time and shorter working hours that was commissioned by EPSU earlier this year.

A participation form for the meeting is attached. Interpretation will be provided in English, French and German with passive Spanish. A small number of sponsorships will be available for affiliates from Central and Eastern Europe.

If you are unable to participate, please send us any questions or comments you have about the Communication and let us know about the main problems you face in relation to the Working Time Directive. You can contact Richard Pond at rpond@epsu.org.

Yours sincerely,



Jan Willem Goudriaan
EPSU General Secretary

List of enclosures: to be found at <http://www.epsu.org/event/working-time-advisory-group-meeting> (members only area - login to the EPSU website)

- European Commission Interpretative Communication on the Working Time Directive
- European Commission Implementation Report
- EPSU Note on the Interpretative Communication
- ETUI Legal Assessment of the Interpretative Communication
- ETUC discussion paper
- Participation form and hotel list