

Ms Anna Diamantopoulou
Commissioner for Employment and Social Affairs
European Commission

B-1049 Brussels

Belgium

Dear Commissioner,

Report on working-time directive

We have been informed that the Commission communication on the implementation of the working-time directive will be for the agenda of the meeting of the college of Commissioners on 16 December 2003. The purpose of this letter is to draw your attention to four points of concern for European employers.

Legislation on working time has a strong influence on how production can be organised in companies. Flexibility in this respect is crucial for their competitiveness.

With regard to the implementation of the working-time directive, companies are faced with the following difficulties:

- Jurisprudence in the Simar and Jaeger cases has implications not only for public hospitals. For example, it could raise costs in the private-care sector where people also have on-call duties. It could also have affect some industrial activities, for example where in-company fire brigades exist.
- Administrative tasks linked to the implementation of the working-time directive are all the more burdensome for companies because the reference period is short. Annualisation of working time or extension of the reference period for calculation of the weekly working time to 52 weeks as a general rule would help reduce this administration and would be particularly beneficial for SMEs.
- Contrary to what is often believed, the United Kingdom is not the only country where the possibility to opt out from the 48-hour rule is being used. This possibility should be preserved as some activities could not function without it.
- In the transposition of the directive, the definitions of managing executives or persons with autonomous decision-making powers has sometimes been too narrow to address the specificities of management functions.

I very much hope that you will be able to take these points into account.

Yours sincerely, *best regards,*


Ph. de Buck