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EUROPEAN CONSERVATIVES AND REFORMISTS GROUP BEYOND TRADITIONAL EMPLOYMENT POLICIES - CAN EUROPE REGAIN ITS COMPETITIVENESS?

21 SEPTEMBER 2011

SESSION 2: WILL THE WTD HELP US REGAIN OUR COMPETITIVENESS

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Importance of the organisation of working time for companies:

- The organisation of working time is a very important factor in running a company in an efficient and productive way.
- It affects companies' ability to provide goods and services and to respond to clients' and consumers' demands. This ultimately has an impact on the competitiveness of companies.
- The world of work has changed, with a substantial impact on the organisation of working time and working patterns.
- In particular, competitive pressure on companies has increased with globalization, as well as changes in the way services are provided and customers' expectations.
- Companies have reacted to this, by developing new approaches to managing the workforce and new working time arrangements.
- To enhance productivity and deal with increased competitive pressure, companies need to be able to devise working time arrangements in a flexible way.
- They need to be able to adapt working time arrangements according to developments on the market and fluctuations in demand.
- The Impact Assessment study on further action regarding the working time directive, highlighted these and a number of other factors which companies cite in terms of the need for flexibility – ensure competitiveness of company, free choice of employees, providing continuous services outside normal working hours, and shortages of skilled labour.

The complexity of the working time directive:

- The working time directive from the outset went beyond providing minimum provisions at EU level, setting detailed and rigid rules concerning working hours, rest periods etc.



- The result is a complex directive, which is not easy to implement at company or member state level. The court cases which have arisen in relation to the directive are testament to this complexity.
- Employers and workers have found ways to effectively organize their working time within the limits of the directive. In many cases practical solutions have been found jointly, particularly through social dialogue and collective agreements.

Revision of the directive:

- BUSINESSEUROPE is willing to negotiate to solve legal problems caused by the European Court of Justice rulings on on-call time and paid annual leave/sick leave.
- We believe that a narrow revision would be more sensible and more likely to lead to an agreement.
- These issues need to be dealt with as a matter of urgency, because the rulings have led to legal problems and adverse effects for employers and employees.
 - The rulings on on-call time make it difficult for companies not only in the public/health sector, but also the private sector to run on-call operations.
 - If all on-call time is counted as working time, as the ECJ ruled, the maximum weekly working hours are reached much more quickly. This means that employers have to take on more staff.
 - This brings much higher costs for companies and can require significant reorganisation of work schedules.
 - It is also problematic due to existing staff shortages in many cases. This may not only create an uncertain situation for employees, but also lead to lower quality of services provided to consumers.
 - The rulings on paid annual leave have created legal problems for companies, as they contradict in some cases what is set by national law. Whereas the ECJ cases allow for paid annual leave entitlements to be carried over by workers on long-term sick leave, in some member states paid annual leave can only be taken during a set period of time (e.g. for one year).
 - Arrangements to implement the annual leave provisions of the directive at national level have worked well until now, with companies taking a common sense and sympathetic approach.
 - However, the ruling to allow workers on long-term sick leave to carry over paid annual leave may result in them being away from the workplace for longer. This will cause problems for companies in terms of organisation of human resources, not forgetting the negative effects on workers in terms of reintegration in the workplace.



- In addition, the ECJ ruled that in the same situation a worker could be recompensed financially for the annual leave not taken. This brings an additional cost on companies, which may have an unintended adverse effect on the retention of employees on long-term sick leave.
- The opt-out remains important to business. It gives employers necessary flexibility, for example to deal with fluctuations in demand, to provide services and products at times that suit their customers, and to work on specific projects during a restricted period of time.

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