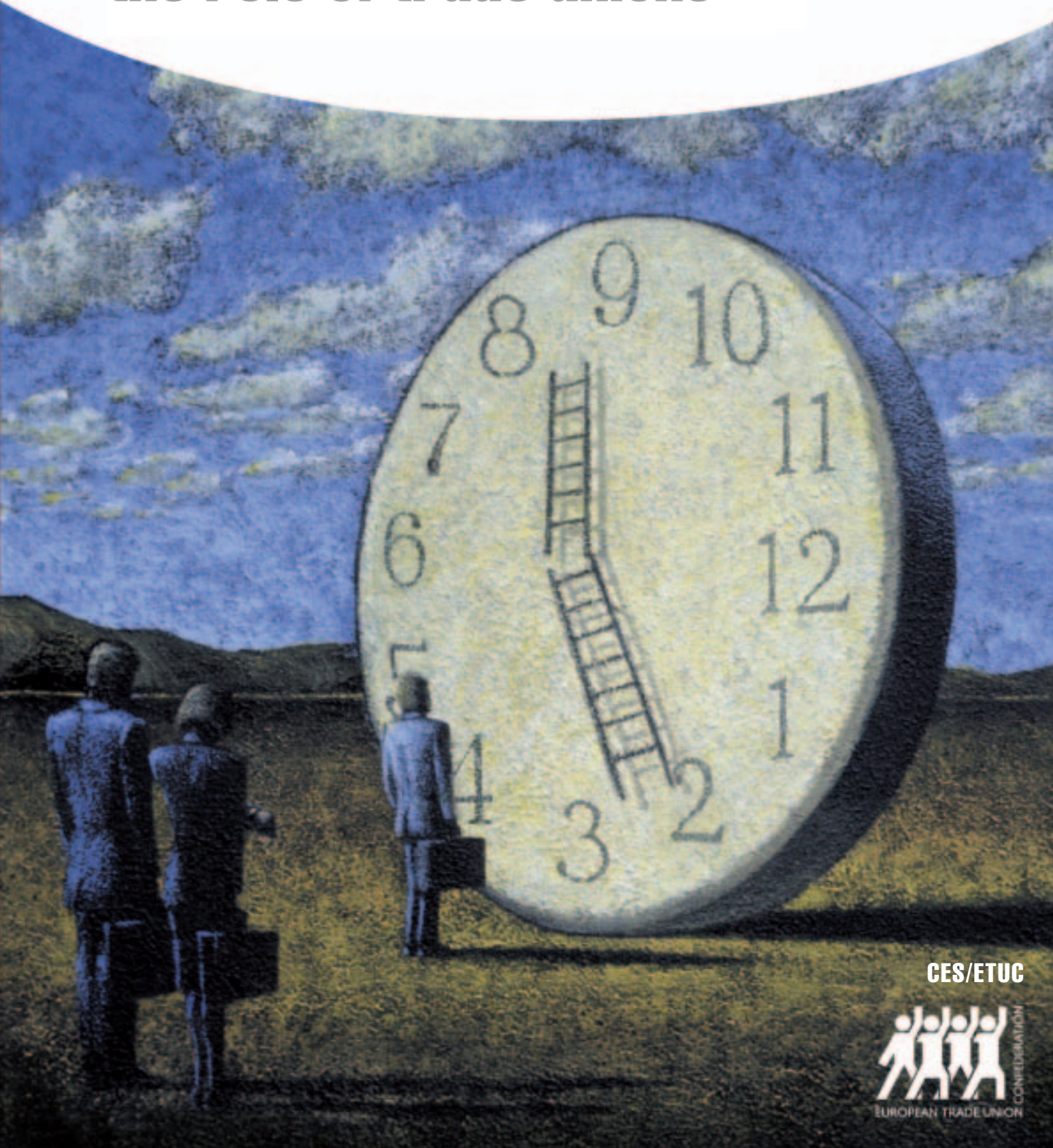


# CHALLENGING TIMES

Innovative ways of  
organising working time:  
the role of trade unions



CES/ETUC



EUROPEAN TRADE UNION  
CONFEDERATION



# **CHALLENGING TIMES**

INNOVATIVE WAYS OF  
ORGANISING WORKING TIME:  
THE ROLE OF TRADE UNIONS

**Report of ETUC Conference**

By Dr Jane Pillinger

This report is based on the proceedings of a conference organised by the European Trade Union Confederation (ETUC). The conference '**Challenging Times: Innovative Ways of Organising Working Time**' was held in London, 17-18 November 2005

The conference was attended by just over one hundred and fifty participants from trade unions and employers organisations across Europe.

The report was written and edited by Jane Pillinger, an independent researcher based in Dublin, Ireland.

July 2006

### **Acknowledgements**

The conference and this report were made possible thanks to financial contributions from the European Commission.



The views expressed herein are those of the participants of the seminar and can in no way be taken to reflect the official opinion of the European Commission. The European Commission is not liable for any use that may be made of the information contained in this report.

ISBN 2-930467-06-1

D-2006/10.823/4

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# Preface

The conference, organised in November 2005 in London, by the ETUC with the support of the TUC, took place at an important moment. The EU is currently reviewing its key legislation on working hours, the Working Time Directive, and the ETUC and its affiliates are very concerned about the proposals on the table. Far from improving on the existing law, they actually represent several steps backwards, undermining workers' protection and weakening trade unions' ability to bargain on their members' behalf. However, the ETUC has found an important ally in the European Parliament, where a convincing majority voted in 2005 for fundamental changes, to safeguard the right to limitation of working hours as a fundamental social right in Europe. At the moment, progress is blocked in the Council of Ministers, with Member States fighting in favour or against the deletion of the so-called 'individual opt-out'.

This fight symbolizes a much wider battle in Europe about the future of the European Social Model. At the moment we do not know how this battle, in which the ETUC and its affiliates will certainly have to play an important role, will end. But we do know that current choices regarding the organisation of working time will decide the opportunities for future generations.

**Going back** to long and unhealthy working hours and a traditional division of labour between women and men will hinder fully fledged participation of women on the labour market, and negatively influence the choice of young parents to combine labour market participation with raising families. This will eventually have a damaging influence on economic growth, productivity and the capacity of the EU to deal with demographic change.

**Going forward** to a limitation of working hours will promote modern working time arrangements that can provide flexibility to both workers and companies, and will thereby contribute to economic sustainability.

The conference, and the good practice that was presented there, showed the way forward. More and better flexibility can be achieved, with more and better results in terms of competitiveness, productivity and health and safety, when there are limits to working time on the one hand, and mechanisms in place, on the other hand, to negotiate and develop working time arrangements that offer flexibility and security to both employers and workers. The fight to safeguard the basic principles of the Working Time Directive is therefore not just a fight about the hours that are established as a maximum, but also how these hours are scheduled and organised in practice. Social partnership, social dialogue, collective bargaining and worker representation are key mechanisms to provide for a balanced outcome, allowing individual workers genuine opportunities to work healthy and safe hours and combine work with private life.

Therefore, there is every reason to continue working at all levels where trade unions are active, to offer individual workers support when they want to fight long and irregular hours demanding that employers also take their needs into account, and to negotiate collective frameworks that combine flexibility for employers and workers with security.

During this conference trade unions have shown that they are at the forefront in developing innovative and sustainable working time models, and in finding modern employers as their counterparts. Together they show that there is a realistic and attractive alternative to the one-sided and shortsighted call for lengthening of working hours.

**John Monks**  
**General Secretary, ETUC**

# Summary

## Introduction

This report addresses the modern day challenges in working time in a climate of rapid economic and social change brought about by globalisation and more intensive competition, a wider and more diverse European labour market, changing expectations of workers brought about by the feminisation of the labour market and the ageing population.

The report summarises thirteen good practice case studies that were presented to the conference, as well as presentations from speakers who addressed the changing context of working time, the links between having strong regulation and effective changes in the organisation of working time, and the need for trade unions to be at the forefront of change through social partnership models.

## ***The link between the regulation of working hours and working time flexibility***

Key messages from the conference are that:

Flexibility can have negative and positive consequences. Without the regulation of working hours flexibilisation of the labour market can limit workers' rights.

Long working hours, instead of providing for flexibility, limit opportunities for creative working time solutions, they prevent workers achieving work-life balance, and they impact on the ability of companies to provide flexible production and service delivery functions.

Fair competition across Europe requires effective regulation of working time in a wider and more diverse Europe. Longer working hours, weak collective bargaining structures and the limited impact of national legislation in the new member states threaten working time standards in all member states.

A regulatory framework on the length and definition of working time, including working time flexibility, is shown in this report to contribute to good practice; this enables companies to be creative and innovative in the organisation of work and time.

Trade unions have argued that regulation needs to underpin modern developments in working time to ensure that more flexibility for employers also offers opportunities for workers to work flexibly while safeguarding their needs for security.

New challenges exist in the labour market with demographic changes. Women and older workers have different needs and perspectives regarding working hours and this has led to stronger demands for adapting working time to workers' individual needs and preferences. In contrast, working time flexibility is more likely to be imposed on vulnerable groups, for example, temporary workers.

## ***Case studies***

The case studies show that trade unions are taking a dynamic approach to change in the workplace in finding innovative and creative ways to achieve work-life balance through flexible working hours.

In partnership with employers, trade unions are actively involved in finding solutions to the increasing complexity and diversity of people's working lives alongside the challenges of competitiveness.

The best examples are those that take place within a national supportive context, including a regulatory framework that not only limits excessive working hours, but that also stimulates innovation and creative solutions.

Partnership working and joint problem solving have enabled staff to explore how different working time arrangements, in areas such as annualised hours, compressed hours, flexible hours, including



part-time work, job-sharing, term time working, working time accounts and time banking, can impact on smart working practices and improved business efficiency in order to meet the flexibility requirements of the modern workplace and business competitiveness, and utilise the full potential of all employees.

Often women pay a high price for working flexible hours and this can affect their career development, lifetime earnings and entitlements to pensions. As a result focussing exclusively on the working time patterns of mothers and carers reinforces the time gap between women and men as well as the occupational segregation of women workers in low paid and unpaid work.

A key issue is to ensure that working time arrangements help achieve real equality between women and men at work by ensuring that these arrangements do not 'penalise' women (in terms of negatively affecting their job security and career progression, working in dead end jobs and on precarious contracts, having fewer pension and social security rights). This approach can actively encourage men to contribute time to family life. As a result extending opportunities for all workers to work flexibly is one way by which there can be more equity in working time arrangements between women and men. Therefore, a key objective is that the labour market should be organised in a way that is responsive to the needs of all workers.

Similarly more innovative working time arrangements, such as working time accounts, can help secure working-time arrangements that promote lifelong learning and the development of a stronger knowledge-based economy. By promoting 'active ageing' and healthy work patterns working time arrangements can be put in place to retain older workers and enable older workers to work for reduced or flexible hours.

### ***The changing economic and social context***

The *Challenging Times* conference examined the ways in which changes in working time could respond to the significant social, economic and demographic changes taking place in the 21<sup>st</sup> century. Changing economic and societal dynamics include the increasing participation of women in the labour market and the growth of competition in the global economy. The growing importance of flexible working hours, work-life balance and smart working has been recognised as solutions to these changes.

Smart working practices are increasingly necessary to ensure that better use is made of workers' skills and competencies. In the 2005 Lisbon Action Plan<sup>1</sup> flexibility is seen as an important component of competitiveness and employment. At the same time the recognition of a social market approach also requires minimum standards that ensure that workers have security, based on a model of 'flexicurity'.

New expectations and demands for improved quality have been made by consumers and users of services, as well as from workers. Changing production methods, working organisation and working time have also been brought about by the reality of a 24-hour economy. Improving the quality of services has been an important outcome of many of these working time experiments and innovations.

### ***Flexible working time over the life course***

One solution is to ensure that all workers have access to working hours that enable them to participate in other personal, social, political, community or other learning activities. This means that there is a need to address the barriers to flexible working experienced by all workers. A key message from the conference is the need to see working time within a life course approach, that integrates social and labour market policies and provides for a systematic approach to addressing the diversity of time needs over a person's lifetime.

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<sup>1</sup> Commission of the European Communities (2005) Lisbon Action Plan Incorporating EU Lisbon Programme and Recommendations for Action to Member States for Inclusion in their National Lisbon Programmes, Companion Document to the Communication to the Spring Economic Council, 2005, COM(2005)192, 3.2.2005

## **An end to the opt out from the Working Time Directive**

Without the effective regulation of working hours, opportunities for more dynamic forms of work organization and working time schedules will not be possible. As a result the conference heard how the implementation of minimum standards regulating working hours and an end to the opt out from the Working Time Directive, offering a modern framework for negotiated flexibility, is one of the most important challenges facing workers in an enlarged Europe.

The challenge is how to provide workers with real opportunities and instruments to influence the organisation of their working hours. This includes obligations to inform and consult workers and their representatives about working time schedules and changes, providing the legal right to demand the adaptation of working hours to workers' needs, as well as establishing collective frameworks for the organisation of working time, within which individual workers can negotiate arrangements that suit them best. These are far more appropriate means to provide workers with genuine choice.

### **Summary of the case studies**

#### **Case Study 1: Security through flexibility, Airbus, Germany**

The project developed working time accounts to enable the company to deal with fluctuations in demand, whilst also guaranteeing security of employment for employees. The agreement signed by Airbus and the Works Council provided job guarantees for employees and created three working time accounts to prevent job losses during times of fluctuating activity. This was deemed necessary in an industry that is typified by cyclical business ups and downs. A further goal was to prevent excessive working hours and encourage the creation of new jobs.

#### **Case Study 2: Smart working, Heineken, the Netherlands**

In this project Heineken has introduced changes in working practices and smart working in order to address growing competition and falling prices. Workers kept their jobs through the introduction of 'smart' (as opposed to long hours) working. A flexitime scheme was introduced through working time accounts, which helped to balance peaks and troughs in the production cycle.

#### **Case Study 3: New Work Organisation, Tegral, Ireland**

The Irish manufacturing company Tegral introduced a New Work Organisation Programme through partnership working in order to enhance competitiveness at a time of global changes in the industry. The company wanted to create a more efficient company focus based on greater investment in workers' education and training and changes in work organisation through a process of joint problem solving and joint decision making between the management and the unions.

#### **Case Study 4: Annualised hours in Finish Ski resorts**

In a working time experiment in a number of Finnish ski resorts a project was put in place to improve the tourism sector and enhance the number of permanent contracts in ski resorts in a sector of the economy that has traditionally relied on short term contracts and seasonal working. The impact of this project has been wider than on the workers themselves, as the local community and local economy benefited from employment of people all year round.

#### **Case Study 5: Time of our Lives, Bristol City Council, UK**

In Bristol City Council in the UK, an innovative project was developed to provide better services to the public whilst also improving the work-life balance of staff. Flexible working hours helped to enhance the quality of services, including extended opening times, and also the quality of working life for employees. This was particularly important because of the changing environment in the provision of municipal services. The municipality also implemented a positive approach to flexibility and a range of innovative policies to support work-life balance and team working approaches.

#### **Case Study 6: A new working time system in the Ingolstadt Hospital in Germany**

A new working time system was introduced for all employees with core hours from 7am to 9pm and a flexitime system. A new IT system made it possible to decentralise time management to each clinical department and each department, through team working, became responsible for identifying staffing needs and designing working time schedules. The new time management and flexible working scheme has not only been cost effective but it has enhanced job satisfaction and

morale, improved productivity, and patient care, and has shown that a modern hospital can organise working time patterns that are compatible with the judgements of the European Court of Justice about on-call working time. In addition, the hospital has been examining ways to implement new working hours for junior doctors, whilst also ensuring that there is sufficient time for training and development.

**Case Study 7:** *Changing Times in Health, Croydon Primary Care Trust, UK*

In the Changing Times in Health project, flexible working time was seen as a key issue to help retain and recruit staff. This was achieved through the creation of a partnership forum that developed joint solutions in the workplace. The project sought to explore different options for working time in order to contribute to improving working lives and work-life balance for staff and improve service delivery, to embed and implement work-life balance across the PCT through partnership working, and to improve the capacity of managers to effectively manage new working time options.

**Case Study 8:** *Working time agreement in the State Sector, Denmark*

In Denmark a new landmark working time framework agreement for the State sector has found a balance between flexibility and security whilst also simplifying working time regulations. Importantly the agreement allows for flexible working time arrangements to be negotiated by the social partners as local solutions that are adapted to individual workplaces. The agreement simplifies regulations on working time and a big objective is to make the agreement accessible and understandable to workers so that they can be in a position to tailor local working time solutions to local problems. The impact is that workers have more say over their working hours.

**Case Study 9:** *Innovation in working time in the Austrian metal and mining industry*

The Austrian case study from the metal working and mining industry showed that the social partners could achieve an innovative solution to short term fluctuations in demand, through a system that allows employees to take more time off in exchange for a willingness to vary working hours to meet varying demand schedules. Although the initiative took place at the instigation of the employer, a social partnership approach was put in place to agree the arrangements. A time corridor of between 32 and 45 hours per week is provided for in the agreement with an option to bank over-time in a working time account. The agreement also puts limits on excessive working hours and thereby improves the quality of working life for employees.

**Case Study 10:** *Working time negotiations in the Belgian chemical industry*

In Belgium a new approach to working time was introduced in the chemical industry with the objective of increasing production volumes by increasing production from five days a week to seven days a week. A project team was headed by the trade union and this resulted in a partnership that had the objective of ensuring that company production would increase without deterioration in working conditions. Of crucial importance is that a working time system was introduced after new legislation was introduced providing for a legal framework for negotiating working time.

**Case Study 11:** *Social dialogue in working time in military shipbuilding in France*

In an example from France, the DCN military shipbuilding company signed two agreements with unions. The agreement marked a new way of working in partnership, and through the social dialogue workers were involved in discussions about the restructuring of the company. Working time was linked to the organisation of production and a modern form of work organisation geared to meeting customer expectations and delivery deadlines. Workers were given more control over their working hours and a better work-life balance. Implementing the social dialogue at the local level has enabled changes to be adapted to local situations.

**Case Study 12:** *Working time in the ČEZ Distribuce company, Czech Republic*

The project concerned the introduction of collective bargaining for a new company, ČEZ Distribuce, which brought together employees from five regional distribution companies. The case study shows how unions have been addressing the need for regulation in working time to secure the effective introduction of flexible working hours. The agreement introduced working time flexibility to the benefit of employees and employers, by reducing working hours and overtime, and extending annual leave. This is viewed to be important for work-life balance and the reconciliation of work and family life.

**Case Study 13:** *Emerging social partnership approach in the regulation of working time in Romania*

In Romania, the trade unions had to mobilise and organise to secure a new regulatory framework on working time. The Romanian Labour Code in 2003 has harmonised European social rights, including working time principles, into labour legislation. This example shows how the Labour Code has regulated working time based on ILO standards and the EU legal framework, following two years of mobilisation and negotiations with the five trade union confederations.

# Section 1

## Twenty first century challenges on working time

### 1.1 Introduction

Challenging Times is a report of an ETUC conference about innovative developments in working time. It is intended to show that there have been substantial changes and new thinking about working time, as well as new challenges ahead to be addressed by employers and unions alike. A key message is that a regulatory framework on working time that limits excessive working hours can have a positive impact on the development of more innovative, productive and creative approaches to working time.

**Catelene Passchier**<sup>2</sup> stated that working time is core business for trade unions, as much as wages. These two issues have been at the heart of all trade union actions and they are strongly linked. She stated that when the trade union movement demanded limitation of working hours in the 19<sup>th</sup> Century, they also demanded that a normal working week should provide a worker with a decent minimum wage. This demand is still valid and necessary today, particularly in the new Member States.

*“Our demands for limitations were first of all driven by health and safety needs to prevent the worker from exhausting himself and working himself to death. But immediately after that, there was the recognition that life was about more than work, that a worker needed time for social life and personal development. You may have come across those beautiful posters made during the international campaign for the 8-hour working day at the beginning of the 20<sup>th</sup> Century: you see a man in a park sitting on a bench reading a newspaper, looking up to see his wife a bit further away, playing with their child: “8 hours work, 8 hours free, 8 hours sleep”, it says. A very attractive and powerful image. But this image essentially ignored the presence of women in paid work, and the existence of household tasks and care work. Where were the women? Where were care and household in the working time struggles of the 19<sup>th</sup> and early 20<sup>th</sup> Century?”*  
**Catelene Passchier, ETUC.**

In most countries, working time legislation started with the prohibition of child labour, followed by a limitation on the working day for young persons and women, then the prohibition of night work for women in industry, and finally the limitation of the working day for men and the regulation of night work and shift work. These developments are all reflected in the early ILO Conventions, the first of which (in 1919) established the 8-hour working day and maximum 48-hour working week.

Women were sent home to take care of ‘reproduction’, the household and children, in order to guarantee the health of the next generation of workers. And in some countries the trade union movement very effectively demanded a minimum wage for an eight-hour working week that was sufficient to keep a family. This picture started changing in the last decades of the 20<sup>th</sup> Century when the combined effects of the women’s movement and the changes from an industrial to a service economy brought about a feminisation of the workforce. In this period of restructuring, trade unions took up campaigning again, for reduction of working hours, primarily to promote a re-division of labour, a sharing of work with more workers in order to combat unemployment. In some countries, the feminist movement added the dimension of the re-division of labour between men and women to it, although that did not become the mainstream argument for working time reduction.

Now, at the beginning of the 21<sup>st</sup> Century, there are enormous pressures to increase labour market participation and to lengthen working hours again.

<sup>2</sup> ETUC Confederal Secretary, Brussels

Arguments are made about the need to stay competitive in the global economy with the USA and China, and to be able to cope with demographic change. However, when talking about the challenges of globalisation and demographic ageing, it seems as if contradictory demands are put on people and especially on women. Women are expected to have more children, to participate more in paid work, to continue taking care of the sick and the elderly, to keep communities together by voluntary work, and to actively age themselves!

Catelene Passchier concluded by raising the question about how trade unions will be able to deal with the challenges of the 21<sup>st</sup> century. By making everybody work longer working days, weeks, years and lives? And then solve the problems with a mixture of equal opportunities policy and work-life balance measures that are primarily focussed on women? In her view, this will not be possible. The profound changes in European societies will have to be reflected in working time policies, providing both women and men across Europe with the prospect of decent jobs with decent working hours for decent wages, that allow them the time as well as the money to raise families with.

This means that we need to draw a new attractive image, showing the involvement of both women and men in work and in care, and making the case for work that is adapted to the needs of modern workers. But this can no longer be one static picture, based on the life expectancy of one standard worker. Because young workers have other needs than workers with young children, and these have different needs again than single people with elderly parents, or older workers close to retirement.

There must be a time to work, a time to care and a time to live for all! And therefore, work must be fit for a lifetime....

## **1.2 The key messages of the Challenging Times report**

The report presents the learning from case studies, innovations and experiments of successful partnership approaches to working time. It also sets out the challenges that exist and why a regulatory framework on working time is essential in the future if working time arrangements are to meet the needs of both workers and employers, and address the long hours culture and the intensification of work.

First, the report shows that long working hours are not only damaging workers health and work-life balance, they also limit opportunities for there to be more creative and innovative ways of organising work and time. If long working hours have meant that workers are unable to achieve work-life balance, equally companies are less able to introduce cost-effective flexibility in their production and service delivery functions.

Second, a regulatory framework that regulates working hours (and prevents the opt out of the Working Time Directive) is essential to achieving fair competition in a wider and more diverse Europe. In particular, longer working hours and the poor implementation of national legislation in the countries of Central and Eastern Europe (CEE) threatens working time standards in all member states. The reality is that there is a possible negative impact for all member states of poorer labour conditions in the wider European labour market.

Third, a regulatory framework on the length and definition of working time, including working time flexibility, is shown in this report to contribute to good practice and more creative approaches. A policy framework that sets the underpinning principles for working conditions and the environment in which working time arrangements can be established provides an important incentive for employers. As a result, in this report, the most innovative approaches are shown to be those that have been developed with the broad parameters of a regulatory framework on the length of working hours and flexibility in working time.

Fourth, the report examines the concept and practice of flexible working hours. Whilst flexible working hours can benefit workers and companies, they can also create a negative environment for workers. Flexibility as a concept therefore needs to be approached with some caution, particularly as some employers and member states have used the argument of flexibility to promote the opt out from the Working Time Directive and thereby end the regulation of working hours. In some sectors

the flexibilisation of the labour market has had a negative impact on worker's rights. This has led to the conclusion amongst trade unions that regulation needs to underpin modern developments in working time to ensure that more flexibility for employers does not result in less security for workers.

### ***Flexibility: a concept with different meanings***

Flexibility is a concept that has different meanings depending on the context and environment in which it is used and the form that it takes. Flexibility can have positive and negative outcomes, depending on who is defining the conditions for flexibility. The intensification of competition has resulted in pressure to cut labour costs and improve the utilisation of capital and resources, including new methods of flexible production methods, working time and work organisation.

#### *Flexible working hours*

Flexible working hours are defined as working time arrangements where there is a variation in the duration and distribution of working time and working hours. They can include annualised hours, compressed working weeks, flexitime, working time savings accounts and time banks, shorter working hours, part-time hours etc. Employers can benefit from these arrangements, for example, to meet seasonal variations and peak hours, to cut overtime payments and to improve output and product quality. Workers can benefit if they can have influence on the scheduling of working hours and if they allow them to combine work with other responsibilities and interests. However, without such influence, the flexibility for the employer often ends up in a lack of flexibility for the worker.

#### *Flexible contracts*

Flexible contracts of employment, for example, temporary, fixed-term or part-time contracts, can often imply insecurity and a lack of opportunity for workers. Whilst women may want to work part-time hours in order to balance their work with their family lives, they often pay a very high price for this in terms of their long-term career progression and pay. In the case of women, their 'choosing' to work shorter hours or flexible hours may result from a lack of real options to combine work and family life in the context of mainstream employment. As a result full and equal choice for working mothers may only be possible in a society that provides child care support, as well as leave facilities and flexible working arrangements for all workers. Extending flexible working hours to all workers is one way of preventing women from being disadvantaged.

#### *Flexibility and security: finding a balance or combine different aims, the challenge of 'flexicurity'.*

This objective was first signalled in the 1993 *White Paper on Growth, Competitiveness and Employment*. The Green Paper *Partnership for a New Organisation of Work* in 1997 stated that "the key issue for employees, management, the social partners and policy makers alike is to strike the right balance between flexibility and security". This theme has been followed through in the 2000 *Lisbon Economic Guidelines*, the 2004 EU's Employment Taskforce Report, and more recently in the new Lisbon Action Plan with a combined approach to employment and competitiveness through the new *National Lisbon Programmes* for growth and jobs. This focuses on the twin priorities of jobs and growth through the Integrated Guidelines package, agreed by the European Council in March 2005.

Now, again on the agenda.....

The basis of the EU's social market approach has seen the setting of minimum standards that guarantee security, in the context of a flexible and competitive European economy, while offering companies ample scope for flexibility. The Working Time Directive, as well as the Directives on Part-Time Work and Parental Leave agreed through the social dialogue at the European level between employer and union organisations, set minimum standards to guarantee employee security and the reconciliation of work and family life. European employment policy has highlighted the need for the right balance between flexibility and security to support the competitiveness of firms to "increase quality and productivity at work and facilitate the adaptation of firms and workers to economic change."

Positive forms of flexibility are also connected to the development of a more flexible organisation of work in order to meet employees' individual preferences and needs across the life course.

### 1.3 Case studies of good practice and innovation

This report presents a number of case studies that represent examples of good practice of how working time has been approached in innovative ways. They were all submitted for the ETUC's Challenging Times Innovation Award. The joint winners were Bristol City Council, UK (for the public sector), and Airbus, Germany (for the private sector). These case studies show how organisations can be forward looking by recognising that work-life balance issues need to be at the centre of a work culture that results in increases in competitiveness and quality of service.

#### The case studies

1. Airbus: Security through Flexibility (Germany)
2. SMART Working: Heineken (Netherlands)
3. New Work Organisation: Tegral, Metal Forming Company (Ireland)
4. Ski resort working time experiments (Finland)
5. Bristol City Council: Time of Our Lives (UK)
6. Flexible working time at Ingolstadt Hospital (Germany)
7. Changing Times in Health Services: Croydon PCT Partnership Work-Life Balance Project (UK)
8. New working time agreement in the Danish state sector (Denmark)
9. A wider time corridor in the metal working and mining industry (Austria)
10. CSC Energie Chimie: increasing production capacity through the introduction of a new working time system (Belgium)
11. Agreement at DCN Company in Brest on the organisation of working time (France)
12. ČEZ Distribuce Working Time Project (Czech Republic)
13. Emerging social partnership approach in the regulation of working time (Romania)

#### The ETUC Working Time Innovation Awards

The innovation awards examined the possible and actual impact of the initiative, the level of innovation and social partner participation, and the long-term sustainability of the experiment. Also the importance of the context was taken into consideration such as the systems in place for collective bargaining, industrial relations and the competitive environment of the company or organisation.

*“The ETUC Working Time Innovation Awards show how we can be more innovative and how we can work smartly. Employers have realised that it is not just about the improvement of working conditions, but also that flexible working hours help with improving competition. Employers will become better employers if they use working time to improve work organisation and allow workers to have a say in their working time over their lifetime. By being employee friendly you will have win-win working time arrangements...In the Innovation Awards we expected to see innovations, but we were very impressed. We came across very sophisticated working time arrangements that also took a lifetime perspective. These case studies are very rich and importantly they showed the importance of sectoral agreements and partnership working.”* **Head of the panel of judges, Françoise Eyraud, ILO**

*“From judging the working time innovation awards, I know that across Europe – including in the new member states – unions are leading the way in proposing new, imaginative ways of organising work. This includes radical and exciting new approaches to working hours and examples where negotiators have succeeded in using innovation to bring benefits to workers.”* **Frances O’Grady, Deputy General Secretary, TUC**

It is important to note that the case studies reflect flexible working time in its broadest sense, meeting broad economic and social goals, contributing to competitiveness, and enhancing opportunities for lifelong learning. In particular, they show that flexible working hours can be used to meet modern day challenges and the need for workers to be skilled and adaptable. This emphasis is particularly important as the policy emphasis on working time and flexible work has mainly been on competitiveness, on the one hand, and on helping parents to reconcile work and family life, on the other hand.

Because it is principally women that take on the responsibilities for family life, through reduced and flexible working hours, often in precarious employment conditions, they have experienced pay and career penalties that extend over their lifetimes.



The case studies reflect the importance of trade unions and employers working in partnership to achieve sustainable solutions. These include the following themes:

- Show how **partnership working** is essential to developing meaningful and sustainable workplace and local solutions to working time, and produce win-win solutions.
- Ensure that working time developments are linked to **smart working practices** that contribute to **competitiveness, efficient production cycles and improved quality of services and products**.
- Improve **equality of opportunity** for everyone and ensure that working time arrangements suit women and men, carers and non-carers, older workers and younger workers, skilled workers and less skilled workers.
- Highlight the role of a **life cycle approach** to working time so that working time needs and preferences can be properly integrated into a broader societal policy framework.
- Demonstrate how flexible working time can contribute to **life long learning and improved access to education, training and personal development** and in turn benefit companies and workers.
- Develop more flexible approaches to working time for **older and disabled workers** who may wish to work differently, and in the case of older workers to combine flexible working practices with gradual retirement and active ageing in the workplace.
- Identify solutions to the culture of **long working hours and provide options for improving the recruitment and retention of staff**, including the regulation of working hours, as part of good employment practices that can contribute to staff morale, healthy workplaces, and assist higher productivity.

## 1.4 The need for regulation and a culture of partnership

In the opening session of the Challenging Times conference **Frances O’Grady**<sup>3</sup>, stated that the UK leads in advocating the individual – so-called voluntary – opt-out from the 48-hour working week. For many workers, working time and how work is organised is as important as traditional pay and conditions.

*“This conference is a testimony to the solidarity of European unions at a time when our social model is under attack. And for us in the UK, it marks the real commitment of British trade unions to find social – human - solutions to the intensification of work, tighter competition and the fundamental changes in our society and labour markets...There is a saying in the UK that “time is the new money”. We live in a “cash rich, time poor society.”*

**Frances O’Grady, Deputy General Secretary, TUC**

Working time has become a hugely important issue for workers and for some workers time has become more important than money. People are spending more and more time at work and the consequences are devastating. Children are growing up without seeing their parents during the week; there are significant increases in stress and ill health, including mental ill health; and there has been a significant decrease in the number of people actively involved in civil society, as local councillors or as volunteers.

Addressing the long hours culture is a major objective of trade unions. Not only are long hours bad for health, safety and well being of workers, they also have a negative impact on personal, social, family and economic relationships. In practice it is often men that work long hours and women short hours, denying men opportunities to fully participate in family life, and blocking women in their opportunities to pursue a satisfactory career-path in paid work. Flexible working hours can help tackle the intensification of work, particularly where there are peaks and troughs in demand.

Across Europe there have been significant changes in the length and patterns of working time.

<sup>3</sup> Deputy General Secretary, TUC, UK

The decline in weekly working hours that has been taking place for the last two decades has now been reversed. Today long working hours and a greater intensity of work are more common working patterns. In practice the growth of the long hours culture has been associated with increasing levels of work related stress and illness.

In addition the UK's opt out from the Working Time Directive, which allows for individual employees to 'voluntarily' work over 48 hours a week (i.e. if they sign an opt-out agreement with the employer), has been a major factor stumbling block to advance on the European Commission's proposed revision of the Working Time Directive. In the UK a major problem is that many workers are not aware of their legal rights and often they are not even aware that they are signing an opt-out when signing a contract of employment. In many cases there are differences between contracted and actual working hours and there is substantial evidence of a long hours culture.

A TUC<sup>4</sup> report published in 2005 to coincide with the conference highlighted the realities of 'burnout Britain'. It shows that over three-quarters of workers in this country have no element of flexibility in their employment contracts. It also shows that there is huge demand out there for more intelligent working arrangements. For example, four out of every ten workers say they would like to reduce their hours but many are pressurised into working long hours because of the UK's unique opt-out.

Trade unions are campaigning for the improved protection of working people and notice was given to Governments across Europe that the union movement is united in opposing any dilution of the Working Time Directive; this is a key element of social Europe that the unions believe should be protected and promoted.

*"Governments are reminded that the Parental Leave and Part Time Work social dialogue Directives declared that a strong, flexible and competitive European economy depend on providing security for workers. There can be no retreat on that. We need to reclaim flexibility as a trade union term – flexibility that suits workers and not just business."*

**Frances O'Grady, Deputy General Secretary, TUC**

Through social dialogue and meaningful negotiation, arrangements that underwrite job security and individual work-life balance have been introduced. In the UK, in workplaces where unions are recognised, there is almost double the chance of positive flexible working practices. But two-way flexibility works best if it is within a regulatory framework. Frances O'Grady concluded by saying that it was important to think collectively about the negotiating challenges of new times and a new social order. By working together trade unions can make a real difference in the future. This means that trade unions need to reclaim flexibility as a trade union term.

### **The TUC Changing Times process**

Initiatives such as the TUC's *Changing Times* process have raised awareness of the need for a change in the culture of work, including a process for discussing, planning and implementing new working time arrangements through team and partnership working. The TUC's guide to work-life balance *Changing Times* argues that work-life balance requires a reorganisation of work, the development of trust, partnership approaches, and joint problem solving. This marks a clear change in the way that industrial relations is organised and the move towards more consensual, joint and partnership working is regarded as a key instrument of the process of change. The *TUC Changing Times process* consists of an eight-stage model based on successful joint union/management initiatives. The process puts an emphasis on the need to ask employees about their preferred working patterns, and to involve staff in identifying problems and finding solutions.

For further information see the Changing Times WWW site [http://www.tuc.org.uk/work\\_life](http://www.tuc.org.uk/work_life) and the Changing Times Newsletter [http://www.tuc.org.uk/work\\_life/tuc-12062-fo.cfm](http://www.tuc.org.uk/work_life/tuc-12062-fo.cfm)

<sup>4</sup> TUC (2005) *Challenging Times: Flexibility and Flexible Working in the UK*, TUC: London

## 1.5 Regulating working time through international standards

*“If work was so great the rich would keep it for themselves.” Marx brothers*

### **International standards on working time in an era of globalisation**

Jon Messenger<sup>5</sup> provided an overview of the global debate about the role of international standards on working time. Working hours have been a high priority in the setting of international standards. The Preamble to the Constitution that created the International Labour Organisation included the “regulation of the hours of work, including the establishment of a maximum working day and week” as one aspect of a range of measures to improve conditions of labour.

Today there are thirty-nine different ILO standards that impact on working time. They cover daily and weekly rest periods (eight hour day, 48 hour week), weekly rest period of a minimum of 24 hours, a minimum entitlement to three weeks annual leave, as well as standards on night work, part-time work and workers with family responsibilities.

*“In the context of decent work, any international regulation of working hours has to safeguard workers’ legitimate interests and needs in relation to their health and safety, as well as their recreational, family social and spiritual values and needs. At the same time, such regulation should provide a greater degree of flexibility than that offered by the existing [ILO] Conventions so that employers can better organize production and services, adjust to changing production requirements and be internationally competitive.”*

**(ILO Committee of Experts on the Application of Conventions and Recommendations)**

Employers stress the need for flexibility in a global context and highlight the necessity for modern working hours e.g. compressed hours and annualised hours, on the basis that no one size fits all. Employees stress the need for integrated standards, linking limits on working hours, rest periods, holidays and paid annual leave to health and safety issues, quality work and the need for flexibility to be negotiated through collective bargaining. Governments stress the need to recognise the diverse needs of member states associated with different levels of development.

Significant global challenges exist and in particular cheaper labour costs can be a primary source for competitiveness. Longer working hours and lower wages in many developing countries, as well as poor observance of existing legal standards, can create a “race to the bottom” approach; whereas international labour standards can form the basis of enhanced competitiveness and development.

In particular, many developing countries experience long working hours as part of the industrialisation process. Putting restrictions on long hours is viewed as important to preventing exploitative working conditions. A recent ILO report of working time developments across the world (Zeng et al 2005) found significant variations in working hours<sup>6</sup>. For example, in China 41 per cent of employees work overtime and less than half received overtime pay. However, workers attitudes towards overtime are not necessarily negative and one quarter of all workers actually worked less than 40 hours.

Globally there has been a pattern of longer hours and diversification of working hours. In Australia and Japan, and to a lesser extent the UK and the US there has been an increase in the numbers working less than 30 hours a week and an increase in those working over 48 hours a week<sup>7</sup>.

### **International organisations: setting standards on working time**

The first international regulation of working time dates back to 1919 when the very first International Labour Organisation (ILO) set the eight-hour working day and 48-hour week for industrial workers, in the ILO Convention No. 1 on Hours of Work (Industry). Later, in 1930 Convention No 30 extended the principle of an eight-hour day and 48 hour working week to those working in the commercial and office sectors of the economy.

These issues have also been taken up by the Council of Europe where the 1961 European Social Charter stated that Member States should ensure “reasonable daily and weekly working hours” and the progressive reduction in the length of the working week.

<sup>5</sup> Senior Research Officer, Conditions of Work and Employment Programme, ILO, Geneva.

<sup>6</sup> Zeng et al (2005) *Working time in Transition : the dual task of standardization and flexibilization in China*, ILO, Geneva

<sup>7</sup> In the UK this has risen from 13.2% of the population working more than 48 hours in 1987 to 15.5% in 2000; in the US from 15.4% working more than 48 hours a week in 1979 to 20% in 2000; in Japan Australia from 15.3% in 1993 to 20% in 2000; and in Japan from 27% in 1987 to 28% in 2000.

The EU Charter of Fundamental Rights (2000) declares that “every worker has the right to limitation of maximum working hours”. The EU Working Time Directive (1993) sets limits on weekly working hours, including rest times and holiday leave (this is discussed in more detail in section 6).

The standard eight-hour, forty-hour and five-day week, although depicted as a thing of the past, is until today, at least in Europe, the predominant model of working time. However, increasingly workers are faced with demands to adapt to more flexible arrangements. There is a trend towards both longer and shorter hours, with an increase in those working more than 48 hours and those working less than 30 hours. Similarly the growth of non-standard working can be seen in the example of France where recent Eurostat data shows that night work, Saturday and Sunday work increased substantially between 2000-2005.

A large informal economy exists in particular in developing countries. This is especially prevalent in Asia and Sub-Saharan Africa; in India 90% of working people are in the informal economy. Studies carried out by the World Bank have suggested that there is a connection between ‘rigid’ working time regulations and the growth in the informal economy. These studies conclude that working time standards and regulations should be more flexible. However, this approach would pose a number of fundamental problems in improving working conditions based on the progressive realisation of international standards.

### **There are some countervailing forces**

There are a number of countervailing forces that work against long working hours being sustainable in the longer term. Excessive working hours are known to have negative effects on health and safety, as well as on work life balance. A number of studies undertaken in the last five years have pointed to the health risks associated with overtime and extended work schedules which are associated with increased rates of fatigue, stress, cardiovascular disease, musculoskeletal disorders, depression and higher mortality. Similarly, health and safety can be threatened. A recent US study<sup>8</sup> quantified this risk and found that working in jobs with overtime is associated with a 61 per cent higher injury hazard rate than jobs without overtime.

In the United States where there have been few limits on overtime and no maximum hours regulations, some recent State-level legislation has been introduced in recognition of the need to regulate overtime and reduce the associated negative risks on health, stress and work-family life. State level legislation or regulation in California, New Jersey and Washington State and seven other States has been enacted to limit mandatory overtime in the health care sector. In 2000 Maine introduced legislation giving workers the right to refuse to work more than 80 hours overtime in a two-week period. In some sectors collective agreements have limited mandatory overtime, for example, agreements negotiated by the Communications Workers of America.

From ongoing ILO research there appears to be no systematic relationship between income level, national working time laws and the observance of laws. In practice it is difficult to quantify the actual effects of working time standards on competitiveness since developed and developing countries do not always apply statutory limits on working hours. In this sense it is useful to ask the question: how can workers and employers respond more effectively to ‘beneficial constraints’ by making work organisation efficient and effective.

In the ILO’s *Better Factories Cambodia* project established in 2001 in the Cambodian garment industry improvements in working conditions have been achieved through the creation of a niche market that focuses on compliance with labour standards. After the ending of the MFA quota in 2004 both the quantity and value of exports increased, with positive reports of growth forecast (with a growth of GDP estimated by the International Monetary Fund from 2.3 to 6 per year).

*“In the future we need to actively seek innovative approaches that find a balance between workers’ needs and preferences and firms’ business requirements. The challenge is to identify – through a process of social dialogue – an international framework on working time that can satisfy the needs of both workers and employers.”*  
Jon Messenger, ILO

<sup>8</sup> Dembe et al (2005) “The impact of overtime and long hours on occupational injuries and illnesses : new evidence from the United States”, *Occupational Environmental Medicine*, 62:588-597

In the light of the changing nature of working time developments there is a need to find a balance between business requirement and workers' needs and preferences. This requires a new policy approach and a new approach to working time.

A policy framework developed by the ILO<sup>9</sup>, identifies a new approach to achieving changes in working time in the future. This includes five dimensions of: promoting health and safety at work and healthy working time practices, helping workers to achieve improved family friendly working time, promoting gender equality through working time, enhancing productive working time, and facilitating worker choice and influence over working hours.

## 1.6 Flexibility and control: new challenges

In a presentation by **Steffen Lehndorff**<sup>10</sup> five modern day challenges to working time were presented concerning collective bargaining, equal career opportunities for women and men, flexible and irregular working hours, health and ageing in the workplace and moving towards shorter working hours in the future.

### **Collective bargaining on working time**

In general there is a relatively good level of bargaining coverage rates in Europe, although these are at much lower levels in new member states of the EU. However, union density is more complicated and is below bargaining coverage rates.

This same pattern can be seen in contracted and actual working hours. Average collectively agreed working hours range between 37-40 hours, with an average of 38 hours for the old EU member states (ranging from 35 hours in France to 40 hours in Greece) and an average of 39.5 hours in the new member states. Despite these collectively agreed hours the Labour Force Survey shows that actual working hours are in the range of 39-43 hours (with an EU average of 40 hours). In 2003, the shortest weekly working hours could be found in Norway (38.6), Italy (38.7), the Netherlands, France (38.8) and Belgium (39). The highest hours were found in Latvia (43.3), the UK (43.1) and Romania (41.8).

What does this mean for trade unions? A key issue is the presence of trade unions at the workplace. In addition, a lack of control over actual working hours is reflected in the need for workplace presence. Although in Western Europe there is no overall general trend towards longer working hours, there is evidence of increasing pressure for longer hours in countries like Germany and the UK, as well as in the countries of Central and Eastern Europe where there is a correlation between lower standards and lower wages/longer working hours. However, there is some evidence of a positive trend in CEE countries, but there is a need to narrow the gap further.

### **Equal career opportunities for women and men**

There is a need for convergence of working time and preferences between women and men. Because women work fewer hours than men the gap between men's and women's careers continues to be wide. In the EU women's working time preferences are 30 weekly hours, whereas men's are 35 hours. In reality women work less and men more than their preferred number of hours. The narrowing of the gap needs to have a life course approach and take into account different needs of women and men across the life course.

### **Flexibility and irregularity**

The trend to more flexible and unsocial working is particularly in evidence in the service sector. A 2004 study on working time by the German trade union Verdi identified a number of problems and demands on workers. The most significant were time pressures, insufficient influence on working time, long working hours, unpaid overtime and irregular working hours. Eighty six per cent of those surveyed wanted compensation in either time or money for unsocial working hours; seventy five per cent wanted a collectively agreed framework for working time accounts; and seventy five per cent wanted payment for the hours worked. A key issue for many workers is a lack of control regarding the duration and distribution of working hours and the overall management of working time.

9 J. Messenger (ed.) (2004) "Finding the Balance: Working-time and Workers' Needs and Preferences in Industrialized countries", Routledge/the Institute for Labour Studies of the International Labour Organisation

10 Research Director, Institut für Arbeit und Technik, North Rhine Westfalia, Germany,

### **Health and ageing**

Working time can impact on work related stress and fatigue. German research has found that longer working hours resulted in more complaints of stress and fatigue. High skilled workers, managers and those with self-managed working time are increasingly experiencing long working hours. Many workers have such high volumes of work that it becomes impossible to work contracted hours and many want to do a good job. In one German survey<sup>11</sup> one third of respondents reported self managed working time; 82% reported that they worked longer hours because there was no other way to cope with the workload, 62% reported that this was the only way to solve urgent problems, 36% said that they would otherwise not be happy with the results of their work, and fifth were ordered to work longer by their line managers. In this respect collectively agreed backup is needed to guarantee individuals rights concerning the organisation of work.

## **1.7 Trends in the countries of Central and Eastern Europe**

**Béla Galgoczi**<sup>12</sup>, provided an overview of the main developments in the countries of Central and Eastern Europe (CEE). The European framework of legislation on working time, workers rights, health and safety, and equal opportunities has led to a paradigm change in these countries. However, trends in the CEE show significant work pressures and adverse forms of flexibility, including greater flexibility in areas such as permitted overtime (extended in Poland, Slovakia and Romania). Unlike many Western European countries, part-time work is not common and there is a similar share overall of women and men in part-time work. Similarly, negotiated flexibility is unusual.

Unions have put greater emphasis on national level bargaining to get as much regulation into the Labour Code and national agreements as possible. In practice this means that there has been no major framework for branch and workplace level agreements, which can be positive in creating positive forms of working time flexibility.

The current trend in these countries is of flexibility and deregulation. Working time is not a central issue in collective bargaining. In this respect working time reductions are very much off the agenda and there is no real mechanism to check the trend towards increasing working hours. As a result it is adverse forms of flexibility that remain the major challenges for the new Member States. There is a growth of undeclared work (estimated to be around 30% of the economy) and of bogus self-employment where employees are pushed into self-employment in order to save employers making social security contributions and rights at work. Abuses of overtime have been reported in a large number of countries, in particular Romania, Bulgaria, the Baltic States and Poland.

Despite some of these negative developments company-related practices are changing and there have been some innovative practices. Some of these developments have resulted directly from the influence of a framework of modern working practices that have been introduced by multi-national companies where there are longer-term practices and experiences of relations with employees, especially in areas such as human resources and technology intensive sectors. One example is of an agreement reached with Audi in Hungary that was considered innovative regarding working time practices.

Although there is no 'official' gender discrimination in working time, women are affected in particular sectors such as retail and textiles where women predominate. One study of a Lithuanian textile company showed that women were exposed to long working hours and poor employment practices.

A recent Polish national agreement found a balance between the demand for more flexibility from employers, with agreement for the development of a legislative tool to limit forced and exploitative employment practices. In Lithuania, the Labour Code has allowed employers to introduce more flexible organisation of working time, with strict limits on overtime and measures to shorten working time for people in jobs that result in mental or emotional stress.

<sup>11</sup> Bauer, F.; Groß, H.; Lehmann, K., Munz, E. (2004): "Arbeitszeit 2003. Arbeitszeitgestaltung, Arbeitsorganisation und Tätigkeitsprofile", Köln: ISO-Institut.

<sup>12</sup> Senior Research Officer, European Trade Union Institute for Research, Education, Health and Safety, ETUI-REHS, Brussels.

## Section 2

# New approaches to working time in Europe

### 2.1 Introduction

As the previous section showed trade unions are taking dynamic and proactive roles in finding joint solutions to working time flexibility. Working time over the life course is not only a new area for worker and employers to be working in partnership. It also requires new policy approaches that combine social and labour market policies through a more integrated approach to working time in areas such as gender equality, care, learning, alongside policy issues such as education, pensions and social security. Having an integrated approach to life events across an individual's life course includes developing working time arrangements such as working time accounts, flexible working hours, lifelong learning, and leave arrangements.

#### **Key challenges arising from social and demographic changes**

- Feminisation of the labour market resulting from the increasing participation of women in the labour market
- Shift from a single male breadwinner model to a dual earner household model.
- Pressures of work, including intensification of work, longer working hours, irregular schedules, health and safety, and problems such as stress and ill health.
- Problems associated with work-life conflict, particularly concerning family friendly working hours, and the difficulties faced by men in participating in family life.
- Ageing workforce and the need to retain older workers with valuable skills and contributions, particularly at a time when dependency ratios are changing and there are emerging problems associated with the sustainability and coverage of social protection and pensions.

The practical operation of working time accounts can be seen in the example from Airbus in Germany (discussed below). This innovative scheme shows how working time accounts are a solution agreed between the Works Council and the company to balance out peaks and troughs in the production cycle and get rid of destructive hiring and firing cycles. Apart from securing jobs this has given employees opportunities to save extra hours worked in their working time accounts to use at a later stage to reduce their working hours as they approached retirement or for time out for learning opportunities. The scheme has had a very positive impact on the retention of staff and company competitiveness.

This chapter also examines another significant challenge to the workplace: the feminisation of work. A key challenge is to ensure that women and men can equally participate in work through a better integration of work and family time. Often women lose out in the workplace because working hours have been developed around a male model of full-time continuous work. Flexible working hours can help to ensure that all workers benefit from more diverse working time arrangements that do not disadvantage women.

In the public sector there have been some very innovative models of working time based on social partnership. The presentation of the Italian 'Time in the City' (Tempo della Citta) legislation and projects shows that the organisation and streamlining of work and family policies is connected to the need for more coordination and integration of care services, education, training, transport and leisure services. The objective is that time schedules are integrated so that women are not at a disadvantage and city services become more customer focussed. Trade unions have been important partners in city-time projects across Italy and these projects have been achieved through a partnership approach between local government, employers, unions and community representatives.

## 2.2 Life course approach

**Jean Yves Boulin**<sup>13</sup> provided an overview of one of the most important debates currently taking place on working time, notably how working time arrangements can be organised across the life course. The idea of a life course approach to working time is not new. The objective of life time working hours of 40,000 hours was first discussed in the 1960s by the Swedish economist, Gosta Rehn. The life course has more recently become of interest in the context of fulfilling the Lisbon objectives, and as a response to the increasingly complex and diverse patterns of employment to enable workers at different stages in their lives to reconcile their needs and preferences with their working time.

*“A life course perspective to working time policy can include care, pension and social security issues, whilst also recognising that workers have different needs and interests over their working lives.”*  
Jean Yves Boulin, IRIS-Université Paris Dauphine

A key development in thinking on working time flexibility is how a life course perspective can be integrated into policy frameworks on working time, in areas such as gender equality, parenthood and other care responsibilities, life long learning, social security and retirement. The practical translation of this thinking into working time developments includes the development of policies and practices on working time accounts, reducing/increasing working hours, lifelong learning, sabbaticals, career breaks, and other leave arrangements from the labour market. This enables different life course events to be more effectively planned for and predicted.

In practice, a life course approach requires that social protection systems support working-time adjustments and flexibility over the life course for all adults. New pension and social security systems are needed to reflect the realities of modern day life, and particularly the assumption that working relationships are based on the full time (male) breadwinner model. Rather a system is required that recognises the diversity of working time patterns, particularly for parents and older workers, including the need for more flexible working and retirement schemes to help retain older workers in the workplace. This approach also requires that there is a partnership at the workplace in order to stimulate changes in work organisation.

The benefits of the life course approach are that it acknowledges, and thereby makes it possible to predict with more certainty, the impact of different life course events on participation in the labour market. It brings all workers, men and women, young and old into the same framework of the life course. Anxo and Boulin<sup>14</sup> have argued that a life-course approach to working-time policy needs to address healthy working-time patterns, better work and family balance, and gender equality.

Putting such a model in place would provide workers with options to adjust their working hours to suit their preferences at different stages of their life course and in response to different life events, and to negotiate their preferred working hours. This means that parents are more able to balance work and family life. This can help to increase employment rates of mothers and may also contribute to increasing fertility. More men will also be encouraged to participate in family life. Workers will have more opportunities to gain a ‘work-learn balance’ and combine employment with life long learning. There are more opportunities for active ageing in the workplace and healthy working practices. People can avoid being exhausted at the end of their working lives, which may also enable people to work longer on a life time basis.

Employment rates are likely to be higher particularly for women and older workers and there will be more opportunities for continuous working, particularly for women during child rearing ages and older workers, thereby guaranteeing decent pension incomes. The life course approach can also have the benefit of meeting customer and service user expectations by introducing new forms of work organisation and service delivery that meet the needs of both workers and businesses.

<sup>13</sup> Researcher in Sociology CNRS, IRIS-Université Paris Dauphine

<sup>14</sup> Anxo, D and Boulin, J-Y (2006) “Working time options over the lifecourse: new work patterns and company strategies”, European Foundation: Dublin



## 2.3 Working time accounts

Working time accounts have been an innovative way of organising working time through a life course approach. In practice, a combination of regulation and/or central agreements are important to setting the principles for a life course approach, whilst the implementation is best located at the level of the company. The most innovative flexible life course approaches to working time policy have been developed where there are objectives and policy frameworks established centrally at a national level, mainly through legislation. In practice the detail and implementation is developed through sector or company agreements.

There have been a number of practical ways by which life course approaches have been developed across Europe. In France and the Netherlands time saving banks have been introduced to enable workers to bank their time over longer periods of time. In France, the introduction of training leave has been combined with a time bank savings account.

In Germany, it is estimated that 67% of German companies have introduced working time accounts schemes, many of which have been negotiated with the social partners. The majority of working time accounts are based on hours that are saved and banked from overtime or flexitime, and in some cases these saved hours can be a bonus for night or weekend work or time credits for attending in-company training. Time can be saved for short term needs for time off, for longer term time off, for education and training, and for gradual / early retirement.

### Case study 1: AIRBUS: SECURITY THROUGH FLEXIBILITY<sup>15</sup>

*“Airbus has learnt from earlier crises and intends to rely on flexibility to deal with temporary workload problems.”*  
Udo Nobel, Airbus Works Council

In 2003, management and the Works Council of Airbus signed an agreement ‘Security through flexibility’ which runs from 2003-2012. The agreement includes job guarantees for direct employees until 2012. Airbus Germany employs slightly under 20,000 employees, one in eight are women. The agreement includes the development of three working time accounts to prevent job losses during times of fluctuating activity. This was deemed necessary in an industry that is typified by cyclical business ups and downs. A further goal is to prevent excessive working hours and encourage the creation of new jobs.

There are benefits for the employees, the company and for society from this approach:

- For employees, the benefits are that jobs are secure even in times of crisis; short time working (and pay cuts) during times of low activity have been eradicated; and permanent and temporary staff are treated equally.
- For the company, the benefits are that it can adapt quickly to changing market conditions in times of high production while in times of crisis, the company retains valuable staff, minimises the possibility for industrial action, creates certainty and motivation, and is viewed as an attractive employer.
- For society, the benefits are that a large work force is able to improve their pensions and therefore not be a burden on the social welfare system, existing jobs are secured and new jobs are created, training is provided, and the labour market is stimulated.

The ‘Security through Flexibility’ agreement was pioneered in a local agreement signed between the IG Metall and employers in the Airbus plant of Norderham in 1999. The national agreement that followed in 2003 benefited from an evaluation of the Norderham scheme. The main message from this was that schemes needed to be simpler to understand.

#### **THE THREE WORKING TIME ACCOUNTS: THE BASIC ACCOUNT, THE SECURITY ACCOUNT AND THE LIFELONG WORKING TIME ACCOUNT**

The *basic working time account* grew out of the flexitime scheme and can be used to bank any extra time worked, whether it qualifies as official overtime or not. Official overtime (that is time officially designated as such by management, with the agreement of the works council) qualifies for a bonus (depending on how many hours are worked per day or week): time is banked in the working time account and the bonus is paid out in cash. Each employee can save up to

<sup>15</sup> Case presented by Udo Nobel, Airbus Works Council, IG Metall and Frank Meyer, Senior Manager Human Resources, Airbus.

100 hours and be in debt for up to 50 hours. When a credit of around 80 hours is achieved an amber light appears and a discussion takes place between the employee and his or her supervisor to encourage the employee to take time-off, prevent the further accumulation of credited hours, and/ or transfer hours to the other two accounts. A red stop light of 'no more hours' goes up when 100 hours are accumulated. Employees are free to take their time-off how and when they choose in consultation with their supervisor and team.

The *security account* enables the company to manage short and medium term capacity problems. Hours can only be withdrawn collectively in agreement between management and works council in response to a significant drop in demand. In the past such a situation might have resulted in 'short-time' working, or even redundancies. Thanks to the security account the 'saved' hours are used to stabilise people's wages and jobs as actual hours worked are cut back. In recognition of the cost savings for the company, using 'saved' hours instead of 'short-time' saves the company 30% wage costs per hour – withdrawn hours are credited as 115% (the company and the workforce split the difference). Employees can save up to 150 hours and be up to 150 hours in debit. A withdrawal of 150 hours corresponds to one month's work for employees covered by the collective agreement. In special emergencies, and in consultation with management and employee representatives, hours can be withdrawn from the security account for individual needs.

Employees are also free to transfer hours to the *lifetime working time account*. It enables employees to take up early retirement with full pay or choose gradual retirement. There is no upper limit to the time saved in this account. Employees invest time, this is converted into money, invested at no risk to the employee and the nominal value of the fund is guaranteed. The fund is graded by age and the composition of the investment changes with age. The pay is subject to taxation only when it is being paid (in time), the employer also pays the employer's social insurance contribution and because the working time was accumulated in advance, it is taken into account for the assessment of the pension. The company does not save on the wage bill, rather the pay of employees is invested as a provision for the future.

#### TEMPORARY WORKERS

Providing job guarantees during the ups and downs of the economic cycle partly depended on the employment of temporary staff. Airbus and the IG Metall concluded a special agreement concerning the terms and conditions on which Airbus contracts temporary workers to ensure that they received the same terms and conditions as permanent workers.

#### CHALLENGES FOR THE FUTURE

It is not always easy for people to stop working extra hours when their basic account is full. The key is to have sufficient staff cover, subject to annual negotiations between management and the Works Council. As a result unions have pressed for the creation of permanent new jobs as a consequence of the shorter working hours.

Overall the system has been a great success, particularly the basic and the security account. Many employees have remained sceptical about banking time in their lifetime accounts but, against the growing likelihood that official retirement age will increase to 67 and that current state subsidised options for early or gradual retirement will diminish if not disappear, the Works Council is confident that in time more employees will appreciate the full benefits of this scheme.

## 2.4 The feminisation of the labour market: the implications for trade unions

Changes in the labour market come from an increasingly tight global market and coupled with this is that more and more women now participate in the labour market across Europe. **Frances O'Grady**<sup>16</sup> stated that in many countries dramatic changes have taken place in the labour market, for example, from a male breadwinner model, to the dual model or the one and a half model, where the man works full time and the woman part-time. Demographic changes, especially the ageing workforce and the feminisation of the labour market, have had a profound effect on both work and social organisation. The organisation of work has to adapt in order to reflect these changes; without this change society suffers, health and safety at work is compromised, and businesses lose the skills of parents and carers.

<sup>16</sup> Deputy General Secretary, TUC, UK

According to **Lilli de Felice**<sup>17</sup>, the feminisation of the labour market poses a number of important challenges, in particular how to reconcile working time with non-working time and free time and how working time and free time interaction impacts on gender equality and on working practices. In the past working hours were seen as homogenous and employers saw overtime as the only working time solution to meet their production needs. The problem is that when women began to participate in the labour market they had to do so in the framework of the full time male model of work and the conditions that were associated with this.

Today the reality is different. There have been huge changes in our working lives and changes in work organisation have transformed normal or standard working time. The impact of these developments is that time is more personalised and individualised. Associated with this is the increasing diversification of work including a growth of sub-contracted work, part time work, informal work, and examples of people holding second jobs.

*“A new vision of working time can help to reflect the changing labour market, particularly the increasing participation of women in the labour market and the ageing of the population. A key message is that unions seem to be good for women: the evidence shows that women in unionised sectors have better pay, a narrower gender pay gap and better conditions of employment. Similarly, where working time is organised in a collective and protective framework this benefits women. Offering support and services to workers, in terms of collective arrangements that enhance individual options for flexible working, and playing an intermediary role between the worker and the employer in providing the worker with facilities to combine work and private life, is a whole new area of trade union activity, and may well show the relevance of unions to modern workers.”* **Catelene Passchier, Confederal Secretary, ETUC**

There are similar variations in the ‘grey’ or ‘underground’ economy where individuals have more differentiated working times. The increase in service sector employment means that there is also a growing diversity of working conditions. Therefore, the old dynamic of working time based on full-time work, taking place on a five-day week, with an annual vacation is changing. New pressures include unsocial hours and weekend work. In many cases workers are working these unsocial times to compensate for reductions in earning power.

In Italy, part-time work has been used widely as a best practice tool for reconciling the work-family needs of women. In many cases trade unions have been hostile to part-time work as a development in the labour market, viewing it as a weakening of women’s position in the labour market. However, if well regulated and protected, it can be used as a tool to encourage, recruit and retain women in the labour market in larger numbers than in the past. Part-time work respects the duality of working time and free time. This is shown in the Netherlands where the economy and legislation have been adapted to part-time work. In Italy the voluntary model of flexibility and part time work also has the potential to reduce unemployment levels. The shift has been from a relationship of a full-time father - housewife mother model to a full time father and part-time mother model. Although this model enables women to combine work with family care responsibilities, women are often disadvantaged in part-time work, which offers fewer opportunities for skilled work and career progression, and over a life time, access to good rates of pay and pensions.

The relationship between work time and free time can also be seen in reverse where free time can be incorporated into working time to enable socially useful and voluntary work to be undertaken, or for workers to participate in training and development, or to find a job.

A key factor is to ensure that the security of workers is not reduced through negative social consequences, so that working time needs are related to quality of life issues. Trade unions have critical roles to play in this area, particularly in widening out this agenda to ensure that time is integrated more effectively with personal needs.

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<sup>17</sup> Professor of Labour Law and Social Security, University of Naples, Italy

## 2.5 An integrated approach to 'Time in the City' in Italy: the example of Milan

In the example of the City Time project in Milan, **Alessandra de Cugis**<sup>18</sup> presented the innovative approach to organising city time and working time schedules in the public services and in the commercial sector, with the time needs and schedules of citizens, and particularly of women.

Working hours coexist with the urban context; there are different types of working hours needed in order to respond to changes in urban mobility and the changing rhythms of time and space in the city. People use cities in different ways and more men and women today are working more flexible and irregular hours. Women experience a double burden with daily routines affected by working time schedules. In this sense time is very much a gender issue and in turn this is a political issue. The concept of the life cycle of women has been gradually introduced in Italy in order to improve the reconciliation of women's and men's roles in work and family life. In practice local government has had an important role to play in finding solutions at the territorial and local levels. The critical question has been how local government can help to shape a more complex society and how the organisation of city time can be more responsive to women's needs.

In 1990 local Mayors in Italian cities were given the power to restructure working time and opening hours across all sectors, including public services, schools, transport, business, shops, banks etc, in order to improve the quality of services to citizens<sup>19</sup>. These negotiations have taken place through local collective bargaining forums representing the employers, unions and government - the *Concertazione* - which have adopted broad economic, political and social agendas. These innovations have had important implications for the organisation and flexibility of working time, for new ways of delivering services, and with active trade union involvement.

The City of Milan was one of the first municipalities to develop city time experiments. City time experiments are innovative and creative working time experiments located in many Italian cities. They are linked to extended service provision and citizen-friendly policies.

The Milan, City Time project began in 1994 following an agreement between the Commune, the Prefecture of Milan, the Milan Chamber of Commerce and trade union organisations. A key issue has been to balance city time calendars with personal and family calendars. After years of experimentation the lessons are that change takes place through innovation, trial and error and negotiation. The 'atlas' or map of services developed in the project was divided into five main areas of activity: queues and waiting times, balancing work and life, mobility and traffic flows, the active city and restructuring of the Municipality of Milan. City time policies were developed through a roundtable of 40 organisations with the view to formulating actions.

Trade unions have been actively involved in the experiments and have participated in their success. The aim of the experiments has been to create citizen-friendly cities by finding a balance between people's working hours, their social time and their needs for extended and citizen-friendly services. Agreements in Modena, Rome, Naples and Milan have involved a dialogue with both service providers and service users with an objective to develop instruments that maximise the provision of services and reconcile the needs of workers with those of citizens in order that they may balance their working and private lives. In addition, the experiments have sought to ensure that urban and service schedules meet the needs of groups such as the elderly and the marginalised and take into account the requirements of women and people living in the suburbs.

<sup>18</sup> City Council of Milan, Italy

See for overview of Italian experiences: *City-time Policies: The Italian experience (1998)* M.T. Franco & A.M. Ponzellini Produced in co-operation with the EU 4th Action Programme on gender and flexibility. A report commissioned by the TUC on the innovative city-time projects in 125 towns and cities across Italy set up since the early 1990's.

<sup>19</sup> Based on Law 142/90 which gives Italian Mayors responsibility for co-ordinating schedules, and for harmonising public services and commercial life.

# Section 3

## Smart working in the private sector

### 3.1 Introduction

Today's challenge with regard to flexible working time is about "smart" working, as opposed to a simple lengthening of working hours, to cope with today's economic and competitive challenges. In this section we examine a number of ways in which companies have adapted their working time schedules in an innovative way, using social partnership approaches.

In Heineken in the Netherlands and in Tegral, a manufacturing company in Ireland, the focus was on the development of collective schemes to the setting of working time schedules; this is in comparison to the development of individualised solutions, although in a collective framework, that accommodate individual needs in sectors like the health sector. In the Finnish ski resorts the opportunity to work annualised hours was voluntary and staff had a range of flexible working hours options that could be worked to suit their needs and preferences. In practice annualised hours were taken up widely and there was no impact on health and safety.

The benefits for staff can be seen in the three case studies, whereby smart working and flexible working hours contributed to enhanced employment stability and more opportunities for the creation and retention of permanent jobs. In Heineken, the smart working time project moved the company from a traditional organisation to a modern organisation based on a change to the traditional shift systems to more flexible systems. This reduced the reliance on temporary agency staff and overtime, and increased permanent staffing levels. In the Finnish ski resorts workers were able to move onto permanent contracts of employment and work the full-year round. This not only gave staff more stable working lives, it also benefited the local community and the local economy. In Tegral, the impact of the process of partnership working also highlighted the importance of skills building to enhance the capacity of workers to work in higher skilled jobs in the manufacturing sector, which in turn kept people in jobs and enhanced their pay levels.

An important point is that, as in many successful projects that have been developed, those in Heineken, Tegral and in the Finnish ski resorts have required first of all an investment of time, financial resources and human capacity in the development of new working time schedules that would pay off in the longer term. In the case of the Tegral project external funding from the EU enabled the company to have the resources to bring in external partnership facilitators. Of importance to all projects has been the support of senior trade union officers and management to the processes of partnership working and for the validation of the joint solutions that have been found.

In the case of Heineken the example shows how smart working practices have been achieved because there is broad support at a national level from employers' organisations and trade unions, which has been achieved through a legislative framework that encourages these new working practices. Having a legislative framework and a supportive national context has in this case been shown to stimulate innovation and creativity.

***In summary, the case studies show a number of key elements of change resulting from new flexible working practices:***

- Companies were able to be more competitive and through smart working were more efficiently able to tailor their work processes, work organisation and working time to production cycles.
- Decentralised approaches to working time enable negotiated solutions to be tailored to company needs.
- Partnership approaches add value to the organisation of work, competitiveness and smart working practices, by reconciling the needs of the production cycle and business requirements with worker's needs and preferences.
- Workers benefited from a better work-life balance, based on the recognition that long working hours can be detrimental to health and well-being. Curbing long working hours has been associated with allowing for more flexible approaches to working time.
- Skills building and improving the capacity of workers was seen as a necessary adjunct to modern production methods.
- If properly designed flexible working time arrangements can enable workers to have more control over their work and family lives, including balancing family and work responsibilities, having access to life long learning opportunities, and also enabling older workers to stay in the work place by working flexibly. Workers had more stable employment positions, including more opportunities to work on permanent contracts.
- Partnership working was the key factor that enabled employers' demands for flexibility to be matched with workers' time needs and preferences. This was achieved through joint problem solving and joint solutions that combined employers and workers perspectives through a social dialogue.
- Improving the management of working time was also seen as an important way of ensuring that working time regulations are implemented in practice, including ensuring that there are checks on long working hours, and also so that policies on parental leave, care leave, leave for training etc., are fully implemented.

## Case study 2: SMART WORKING: HEINEKEN, THE NETHERLANDS<sup>20</sup>

*“Trade union representatives often prefer to regulate working times as far as possible, into every small detail in the collective agreement. ‘Working smarter’ demands decentralisation, which means that the collective agreement only sets a framework, and the working time patterns themselves can better be found and regulated with the works council, or even with the employees themselves. That means a new role for the trade unions. From opposition to social dialogue, from ‘we will arrange everything for our members’ to the role of ‘advisor.’”*

**Sam Groen, FNV-Bondgenoten**

*“The social dialogue is important for change...to implement flexibility to ensure continuity...and to reduce labour costs by fitting working times to ups and downs in production.”* **Hans de Ruiter, Heineken’s Director of P&O**

‘Working Smarter’ is a national project established by the social partners at the national level to introduce problem solving and improved relations between employers and employees in order to create new forms of work organisation and smarter ways of working. Heineken is one of the projects developed within the framework of the ‘Working Smarter’ policy. Heineken is a Dutch brewer with 40,000 employees in 170 countries, 5,600 of whom work in the Netherlands. Labour conditions are agreed collectively between the trade unions and the management and there are good processes of social dialogue. In January 2005 the social partners agreed a new set of rules on working time as a basis for new legislation to be introduced in 2006.

In Heineken the project team in the Netherlands involved trade unions and works councils from the FNV, the CNV and ‘de Unie’, as well as the employers’ federation, AWWN. The objective was to change mindsets, show best practices and help to develop negotiations at company and branch levels.

It is against this background that changing working practices and smart working were introduced in Heineken in response to major changes taking place in the market. This included declining beer consumption, growing competition and falling prices. A decision was made to introduce smart working rather than downsize the workforce. Essentially this meant that product costs could be reduced by improving working times to cope with annual highs and lows in the production cycle.

### A SMART APPROACH TO WORKING TIME

The project included the introduction of new practices on time resource management, the development of more flexible working patterns, shared control in working time arrangements, work-life balance and a remuneration policy based on exchange of time and money. As well as introducing flexible working time the ‘Working Smarter’ project includes policies for older workers, employability and ways to improve working conditions by lowering work pressures and reducing absence from work.

At the national level a ‘Platform on working smart’ was established to stimulate experiments and innovation. In this sense smart working has been developed through new technology, new forms of work organisation and better labour relations between employees and employers. This has been achieved by showing best practice and knowledge and helping to stimulate company and branch level agreements.

In the traditional organisation of the company peak times were accommodated through a combination of overtime and temporary agency work, whereas the modern organisation of time now takes place through a flexi-time model and temporary agency work. This has been achieved through the introduction of a flexible rota where production times are more systematically linked to working times. Rather than overstaffing being a problem during times of low activity and additional employment costs being borne during times of peak activity, this new model has provided more predictability for the company and opportunities for staff to exchange time and money through a sophisticated flexi-time scheme.

The experiments have demonstrated that new working time arrangements can be arranged to fit to actual demands, whilst periods of overtime can be reduced significantly. In one part of Heineken (‘Magazijn Drankenhandel’) the effect of this was that changes in working time halted a decline in employment levels.

<sup>20</sup> Case presented by Sam Groen, from the trade union FNV-Bondgenoten and Peter Vos, employers organisation, AWWN, the Netherlands.

### LOCALISED WORKING TIME AGREEMENTS

During the second phase of the project the objective has been to implement the working time arrangements into Heineken's collective agreement. In this the arrangements for the traditional 2-, 3- and 5-shift systems will be replaced by more open working time formulations that allow the social partners to formulate local working time patterns that suit the local situation. Also a simplified and fairer system of payment for the new shift system has been introduced.

*“Experiments teach us a lot about flexibility and how to make it work. We can't put one model on all workplaces; we need a clear framework for designing schedules that is both smarter and cost effective. People can choose hours or time by designing a schedule that fits them best. The biggest problem has been in changing mindsets; old habits die hard, but innovation is the future.”* **Peter Vos, Dutch Employers' Organisation, AWVN**

*“In the Netherlands the pressure to lengthen working hours has meant that employers have changed their discussions from working longer hours to working smart. The success in Heineken has had repercussions at the national level and indirectly in other countries”....“Dutch employers have experienced that when there are less detailed rules in legislation, you need to establish more rules in collective bargaining. So, more room for flexibility does not necessarily mean that there will be less rules.”* **Peter Vos, Dutch Employers' Organisation, AWVN**

### WORKING TIME EXPERIMENTS

Two working time experiments exemplify the approach taken to smart working:

*Experiment 1:* flexible rota in the bottling plant. Average working hours are 34.8 hours per week; at peak times they are 37.33 hours and at times of low production they are 26.67.

*Experiment 2:* flexible shifts in the distribution centre. The average shift is 9 hours and can range from 7.25 hours to 10.25 hours. Average working time in the high season is 38.7 hours, and 33.3 hours in the low season.

### A PARTNERSHIP APPROACH

This example shows the importance of social dialogue and finding joint solutions to the issue of raising productivity. Of crucial importance is that smarter working resulted in improved productivity, without working longer hours and with respect to working conditions and income of workers. This reduced the reliance on temporary agency staff and overtime, and increased permanent staffing levels.



### Case study 3: NEW WORK ORGANISATION: TEGRAL, METAL FORMING COMPANY, IRELAND<sup>21</sup>

*“In the past there had been an adversarial approach, but we changed to joint consensus decision making and this has been good for employees and competition. Changes in work organisation resulted in a flatter structure and a team based approach. We started with a non-controversial issue to test out this approach. When this was successful we moved into more difficult areas. Not only did this save our jobs but it gave us a new way of working that has been positive for everyone, and it improved our skills and capacity to respond to the new market place.”*

**Larry Lynam, Shop Steward, SIPTU, Tegral**

Tegral, a subsidiary of a Belgian multinational company, is a manufacturing company supplying steel sheeting and accessories to the construction industry. It has eighty employees, fifty of whom work in manufacturing and thirty in management, sales and administration.

The unions in the company (SIPTU and TEEU) have had good, although adversarial relations, with management. An overtime compensation agreement for new technology led to a search for alternative forms of development and a New Work Organisation Programme (NWO) was established in the late 1970s. This shifted the focus on industrial relations away from an historical approach of negotiated settlements and compromise through an adversarial approach to a NWO approach based on partnership working, joint decisions and consensus between unions and management.

The background to the project was that growing market competition had resulted in the introduction of new technology. Overtime was the principle mechanism to meet demands of the market place, to the extent that 30% of workers' earnings had been made up of overtime.

#### **PARTNERSHIP WORKING: THE PROCESS WAS KEY TO CHANGE**

The objectives of the partnership were to enhance competitiveness by developing new products and processes, adapt to market changes more rapidly and increase profitability and long-term viability. On the one hand, this required higher skilled and better-educated employees and higher paid employees, on the other hand, new forms of work organisation.

The key elements of the process of change were principally achieved through partnership working. In Ireland, partnership has been firmly embedded into national policy and the Irish Productivity Centre provided support and a diagnostic assessment before the project commenced. A project steering group was set up to manage the project, with external support and facilitation from a consultant, who also assisted with implementing team working and mentoring practices into the organisation. A key objective had been to retain existing staff and changes included the introduction of team working and team leaders, and increased spending on training (from 1% of the payroll in 1999 to 5% of the payroll in 2004), and cross-skilling and up-skilling of employees.

Flexible working time was one of the other key elements of change, including the introduction of annual time contracts, flexi-time and part-time working.

The learning from this pilot is that a partnership approach and consulting widely with staff and managers helped to build trust in the process of change. One of the issues was to avoid apathy and passive participation. For this reason having champions from staff side and employer side were important to keep the change process alive.

#### **KEY ELEMENTS OF CHANGE**

There were three main elements of change. First, the introduction of a new reward system through skilled based pay, gain sharing, profit sharing, annual time contracts, flexi-time, and part-time working. Second, the introduction of a structured appraisal system. Third, a commitment to no redundancies and no loss of guaranteed earnings.

There has been a positive impact from the changes introduced and partnership working is considered now to be a permanent feature of the organisation. One real gain is that there has been a visible improvement in safety performance (in 1999 there were 16 accidents and a loss of 230 days, in 2004 this fell to 4 accidents and a loss of 45

<sup>21</sup> Case presented by Larry Lynam, SIPTU Shop Steward, Tegral, Ireland.

days). The cost effect has been neutral, there has been an increase in basic earnings and strong profitability has been maintained. There has been a combined increase in productivity and flexibility, reduced customer complaints (55% reduction) and improved customer (service with 96% on-time deliveries).

Unions and management took a wide ownership of the process of change and this has resulted in a culture of continuous improvement and a commitment to continue to enhance employee skills, education and culture. The next steps are that the company intends to move away from people issues to task based issues, to see consistent performance from all teams and to become more self-sufficient and less reliant on external facilitation.

The project shows that social partnership is central to achieving the goals set and that partnership needs to be seen as permanent rather than a temporary arrangement. It is clear that a framework that enables everyone to have a say really works and helps to get buy in from all stakeholders. Having union and management leadership at the highest level is essential to the success of a project of this nature. Having champions from both partners is viewed to be a very important part of this and also change must be based on clearly defined and measurable objectives. The process itself is very important and a major culture change of this nature is a very slow process. In this sense change needs to be based on clearly defined and measurable objectives, with clear roles of the different partners (management, team leader, team members). A key factor was also the importance of recognising the skills gap and having a skills strategy to enhance the skills and performance, and also pay, of workers.

#### Case study 4: FINNISH SKI RESORT WORKING TIME EXPERIMENTS<sup>22</sup>

*“This is one local case study example that shows how occupational flexibility can be negotiated to the benefit of both the employer and the employee. The basic principles are free choice and mutual negotiations...everyone benefits.”* **Service Union, Finland**

In Finland the tourism sector holds growth potential, particularly as jobs in the industrial sector have declined in recent years. In particular there has been recent growth in the winter travel sector, with a high season of between four and five months. This seasonal fluctuation creates problems in covering costs and for local people who are likely to be unemployed during the low season.

The United Service Union in Finland (PAM) and the Central Organisation of Finnish Trade Unions initiated a project to run from 2003-2007, in partnership with the Ski Resort Sector Employers Association to examine ways of increasing the number of permanent contracts in ski resorts. This is a sector of the economy that relies on short-term contracts and seasonal working.

The working time experiment took place in the Ruka Ski Resort using a working time framework based on annualised hours. This was achieved by lengthening the daily working hours during the high season and lowering them during the low season. During the low season it has become possible to take up to seven weeks uninterrupted leave. Four ski resorts adopted a trial for one year in 2003 and following this the trial was extended to other ski resorts until 2007. The scheme allows employees to voluntarily join the new working time trial and more employees have joined it over time. During the trial their occupational health has been monitored and there has been no increase in sick leave or accidents at the workplace since the trial started.

The benefits of this working time system is that it helps to level out the seasonal variations that occur in the tourism sector. Of importance is that contracts of employment are now given to cover the whole year and for those that live in the locality there is an added value that the taxes that they pay benefits the locality.

Although there are some costs to the employer, these costs have only risen by 3% as permanent employees now carry out tasks that had been previously carried out by low paid seasonal workers. The implementation of this working time model requires an employer and an employee to draw up a non-binding annual working time plan, which employees can voluntarily opt to participate in by increasing either daily or weekly working hours.

Each employee can work up to a maximum of a 12-hour day, with a rest period within the same 24 hours being not less than the same number of hours. The shortest rest period permitted in any one 24-hour period is 8 hours, if the length of the preceding working day has been 7.5 hours. Alternatively, an employee can opt to extend weekly working time by extending the normal five days working to six days. A weekly uninterrupted rest period of up to 32 hours must be allowed during each calendar week. Employees gain compensation for lengthening their daily or weekly hours through additional days off, which can be added to the annual leave entitlement.

Employees who have participated in the trial have been very satisfied and there has been no increase in sick leave during the trial. In practice the average length of the working day has been 9.5 hours. The system has also resulted in better annual pay than the previous system of seasonal work with overtime during the high season. The operation of a working time bank has also enabled staff to take longer annual leave.

According to the Services Union in Finland: “This is only one local case study example that shows how occupational flexibility can be negotiated to the benefit of both the employer and the employee. The basic principles are free choice and mutual negotiations”. The Services Union also believe that “everyone benefits”. The employees have benefited from permanent and satisfying work and they are more motivated as a result. The employer has also benefited from having stable, professional and motivated staff. A key issue is that they can live permanently in the region in which they work, which can help with life planning and starting a family. Finally, the locality benefits from reduced migration and from greater economic support through enhanced tax revenues, which in turn impacts on local services.

<sup>22</sup> Case presented by Kalervo Haverinen, officer from the trade union PAM, Finland

# Section 4

## **New working time developments in the public sector**

### **4.1 Introduction**

The public sector has long been a source of innovation and good practice concerning working time. In recent years the public sector has experienced significant restructuring, including the introduction of business models, competition and new demands on staff resulting from more client orientated approaches to service delivery. Flexible working time has enhanced customer and service user choice through the provision of better quality services and extended service provision.

In this section four case studies are presented from health and local government to show how innovative flexible working practices have been developed to enhance work-life balance for workers and improve the quality of services. The objective of all of these case studies was to explore new ways of working in order to improve service delivery, within the legal or collectively agreed framework of working time regulation. In Bristol, a partnership approach helped to foster a positive and innovative process of policy development on work-life balance and an innovative approach to change. In the Croydon PCT example, the partnership forum on work-life balance helped to inspire new team based approaches to improving the quality of services and improving the quality of working life, whilst in the Danish State sector the new working time agreement was a major breakthrough in creating the possibility for locally responsive time agreements.

The case studies show that workers are engaged with non-pay benefits and that attention is given to improving the quality of working life as a way of attracting and retaining staff. The projects demonstrate how improving the quality of service through team based approaches and partnership working at the local level can bring real gains that meet the needs and expectations of customers and clients. For example, in Bristol, the project responded to the needs of clients and householders to improve their competitive position. In Croydon, team-working practices led to a more customer-orientated service and to meeting the changing expectations of clients, for example, for services to be provided in the evenings for working parents. In the Ingolstadt Hospital the new time management and flexible working scheme impacted on the job satisfaction and morale of staff with the added value of improving patient care.

In the case studies in the health sector it has been shown that improving patient care can be achieved by implementing changes in working time schedules, that at the same time guard the health and safety of workers concerned. Also in the health care sector working time flexibility can help to attract women into the workforce and is key to recruiting and retaining women staff. An approach that involves the whole team and that allows for self-rostering, part time and flexible hours can be found as solutions in the case studies.

#### **In summary, the case studies show a number of key elements of change resulting from new flexible working practices:**

- Innovative partnership approaches to working time have delivered new methods of service delivery to the benefit of clients and customers, including extended opening times and more accessible services.
- In some cases new working time arrangements that give workers a better work-life balance, through more choice and autonomy, have been considered to be more important than increases in pay.
- Negotiations on working time and partnership working methods have helped to raise the profile of trade unions and to recruit new trade union activists who are interested in the process of partnership, rather than adversarial trade union negotiations.

- Localised solutions to working time, within a policy framework or a framework agreement, have been shown to address local needs and create innovative local solutions.
- A regulatory framework is a necessary pre-condition for partnership working in that it positions local agreements and set the parameters of working time flexibility.

In the UK major changes have taken place in the health sector. In their presentation to the conference **Karen Jennings<sup>23</sup> and Dean Royles<sup>24</sup>** described the social partner forum that has been established in the UK. This has taken a whole system approach, which is embedded in principles of equal access to services that are free at the point of delivery. This is an example of how industrial relations at this particular time in the National Health Services have moved away from a confrontational approach to one based on partnership and a shared vision.

A major overhaul of the pay system has recently taken place through the Agenda for Change national agreement covering 1.3 million staff and based on principles of equal value. This agreement was the result of a number of important cases on equal pay for work of equal value across the health sector in the UK. In one case taken by women workers in a hospital in Carlisle in the North of England women workers won a settlement of £300 million. Instead of going down a route of litigation to achieve equal pay for work of an equal value the health care unions decided to develop and argue for a bespoke system based on the principles of equal value that could be implemented at local levels in partnership. This has been a very successful agreement that has resulted in a major job evaluation exercise undertaken by equal value panels made up of unions, staff and managers.

*“Since the conference was held in 2005 when partnership working was shown to be a strong and effective way of valuing workers in the health service and improving the quality of services, Unison has faced a different situation with management in the health service. Cuts in health services have meant that many staff, who previously had been involved in partnership working, have had to return to front line duties. The challenge for the future will be to find a position whereby partnership working can be used to help sustain high quality health care services.”*

**Karen Jennings, Senior Negotiator in Health, Unison,** (from an interview carried out in 2006 with the editor), following some significant changes in partnership working practices in the National Health Service.

Under *Improving Working Lives*, a partnership initiative to enhance the quality of work, emphasis has been placed on the recruitment and retention of women workers. Staff are supported through flexible working and diversity initiatives. A knowledge and skills framework has also been developed giving rights and entitlements to time off for education and training. UNISON believes that there has to be equal access to education and training for all workers.

Because the NHS is increasingly patient focussed it has been important to focus on ways in which the workforce can be developed to improve service delivery through evidenced based policy.

A Skills Escalator Strategy has been introduced as part of the NHS's competence based work framework that will run until 2008. In addition, the implementation of the Working Time Directive for junior doctors means that the 48 hours week will be implemented by 2009. It is envisaged that finding appropriate working time schedules that do not reduce patient care will put huge pressures on the system. The process of improving health services is being developed in four areas: the model employer, the model career, measures to improve morale and people management.

A key issue is that, with the feminisation of the medical profession, change will come from within. Women doctors currently represent 60% of all doctors and this percentage is rising. ‘Women will act with their feet’ if working conditions and especially working time arrangements are not adapted to their needs. However, in many countries women doctors are not allowed to specialise if they work shorter or part-time hours. Changing working time models means that the workplace is a fairer place for all, but also that the long term sustainability of health care services is better served.

<sup>23</sup> Senior National Negotiator in Health, Unison, UK

<sup>24</sup> Director, Department of Health, National Health Service

## Case study 5: BRISTOL CITY COUNCIL: TIME OF OUR LIVES<sup>25</sup>

*“At the start of the project it was very noticeable that the trade unions sat at one end of the table and management at the other. Further into the project it became increasingly more difficult to identify who was the trade union rep/manager as there was no clear distinction other than to achieve the agreed aims and objectives. Issues were discussed and resolved when they arose...both unions and managers were on the same level.”*

**Rowena Hayward, GMB representative, Bristol City Council.**

*“We have more solidarity amongst the team and the union is seen as working for the members in a positive way.”*

**Council employee, Pest Control Section**

*“This is the first ETUC award and it is important to recognise outstanding achievement. Bristol City Council is a good example of unions and employers working together in partnership to improve service delivery as well as give employees more choice and control over their working lives.”*

**Jo Morris, TUC**

In Bristol, changing working times has been the objective of a ground breaking pilot project to deliver better services, improve flexibility and meet employees' aspirations to balance their life and work, within a framework of partnership. The learning from the pilot was subsequently adopted by Bristol City Council. *The Time of our Lives* project in Bristol City Council (BCC) was led by the TUC and the Employers' Organisation for Local Government.

The project explored the potential for innovative working patterns that would improve both the quality of Council services and employees' ability to balance their paid work with family and personal lives. Consultations, focus groups, joint manager-union training, newsletters and information sessions are evidence of the project's creative and innovative approach.

The local authority also developed flexible working time policies through a process of partnership between managers and unions covering flexible retirement, homeworking, hotdesking, and work life balance and has implemented successful and smart working practices in a range of local authority services. The impact is that the council has been able to overcome some of its difficulties in recruitment of qualified legal staff because of their flexible working policy.

### **PARTNERSHIP AND CONSULTATION: KEY OBJECTIVES**

A key objective was to develop models of partnership between trade unions and employers to enable them to jointly problem solve to identify better ways to organise work and time and to create a positive model of flexibility that benefited employees, employers and customers.

The project consulted widely with staff, through a survey and focus groups. A survey of 700 staff showed that nearly 80 per cent of respondents wanted some form of flexible working. A higher proportion of women (35%) than men (25%) wanted opportunities for education and training and men (34%) were more likely than women (26%) to say they wanted more family time. Focus groups with staff helped to discuss new working patterns and to identify new solutions.

As a result of the Bristol project the TUC went on to develop a set of guidelines, *Changing Times*, to help unions and employers establish projects and to develop partnership working to gain a win-win-win scenario for employers, employees and the competitiveness and quality of the services that are provided.

### **LIBRARY SERVICE PILOT PROJECT**

A number of successful pilot projects of specific services have resulted in more innovative working practices. In the Library Service, the local branch secretary recognised the potential value of a partnership approach to flexible working whilst meeting the public's request for extended opening hours. Sunday working was introduced but was voluntary and accompanied by the usual additional payments. Sunday opening also resulted in a big increase in library use and a wider range of users, especially families who used the computing facilities and children's library. Team based self-rostering was also introduced and this gave staff some control over their working.

<sup>25</sup> Case presented by Rowena Hayward, officer with the GMB trade union

### **WORKING SMARTLY IN THE NEIGHBOURHOOD AND HOUSING SERVICE MANAGEMENT TEAM**

In the Neighbourhood and Housing Service Management team a conscious decision was made to change working patterns on the basis that working smartly means that 'you don't need to work long hours – you just need to be effective'. The Head of the Strategic Housing, Wendy Murphy, decided to move to term time working to enable her to have more time with her two young children, whilst also bringing a fresh approach to the job. She said "this made her work smarter as she had to plan much more in advance especially if she was going to be out for a couple of weeks". There was no negative impact on the service as she had support from her Director and the other Heads of Service who gave support when she was not working.

### **MORE EFFICIENT SERVICES AND LESS STRESS FOR STAFF WORKING IN PEST CONTROL**

A similar project was carried out in Health and Environmental Services. In Pest Control section a successful pilot project was carried out with the principally male employees. One objective was to extend the service and make it more customer focussed, income driven, and competitive. The staff had previously worked standardised hours and moved to a flexi-time scheme. This allowed them to take two flexi-time days off per month during the autumn and winter months when there was a lower demand for services, and one-day flexi per month in the spring and summer months during high level of demand for services.

The new staffing and working arrangements using compressed hours and working from home gave staff more choice in working hours with an added benefit of avoiding the rush hour traffic congestion in Bristol. This resulted in the service being open for longer periods each day, with staff agreeing their hours on a team basis. The benefits to management and staff productivity of staff increased, there was increased income, increased customer satisfaction, new working time opportunities that increased staff satisfaction, and staff autonomy in planning their work.

Chris Raithby, Pest Control Officer, found that working this 'smarter' way, using the flexi time scheme and working from home, enabled him to spend more time with his young children. John Norward, Pest Control Officer and trade union representative enabled him to more effectively care for his ageing parents and says 'It is important that staff have the choice to do this, it also enables me to pop in to check up on my parents in the morning and early evenings on a daily basis...The view from the workgroup has been a reduction in stress as we are not spending so much time in traffic queues feeling frustrated'.

Local trade unions played a key role in the project and their role was considered by the organisation to have played a pivotal role in helping to raise staff awareness. An added advantage for the local unions was that the project helped to raise the profile of union activity and this helped to increase union membership. One trade union representative involved in the Pest Control pilot stated that "We have more solidarity amongst the team and the union is seen as working for the members in a positive way". The service manager also saw the benefits and stated that "In order to deliver the service, we need a flexible workforce, this means that both the business and the workers 'win!'"

### **SUCCESSSES**

The project achieved a mutual benefit for staff and the services provided by the council. It provided staff with more choices and control over their working lives and this positive approach to working time flexibility has helped to retain and recruit staff in areas where there had previously been difficulties in recruiting staff who could earn higher salaries in the private sector. Other benefits included a more structured and smarter way of working, which resulted in less stress at work. The relatively high take up of flexible working across all departments has been managed effectively through partnership working and the case studies have shown that rather than productivity suffering, that there has been a positive impact on productivity and improved service delivery.

The project really engaged trade unions and local unions could see the benefits for their members by enabling them to have a say in how the service is delivered and to look more creatively at their own working patterns. Whilst trade unions led the project, its success is also attributable to the high level of support given to the project from elected members and the Chief Executive.

## Case study 6: FLEXIBLE WORKING TIME AT INGOLSTADT HOSPITAL (GERMANY)<sup>26</sup>

*“The Ingolstadt model proves you can implement the European Working Time Directive and the judgements of the European Court of Justice about on-call work sensibly and in the interest of both patients and employees. But it needs you to go back to the drawing board on the way working time is organised.”*

**Helmut Zinsmeister, Chair of the Works Council, Ver.di**

Ingolstadt Hospital is a community hospital in Bavaria with 1200 beds, 2300 employees and annually 38,000 in-patients as well as 50,000 outpatients. Just under half of its employees work part-time and four out of five are female. The public health services across the region are under huge pressures and for the foreseeable future budgets are constrained, if not cut. Demand both in absolute terms and in terms of quality services will increase, whilst the workforce available to deliver the 24/7 service is shrinking. The introduction of a new time management and flexible working scheme is the key to the hospital's creative and cost effective response to all of these challenges.

The reform of the working time system goes back to the early 1990s. Hospitals have to be staffed around the clock but typically this is done with overtime, a myriad of shift patterns and unsocial working payments. Such a system carries high costs, not just financially but also because decent earnings are associated with working long hours.

Administering complex shift patterns and linking these to accurate wage and salary calculations is complex and there is a potential for errors to be made. Administrative errors and delays in payments were a major complaint for employees in Ingolstadt in the early 1990s when the first attempts were made to introduce greater flexibility for employees. At that time there was virtually no part-time employment, working hours were fixed, there was no scope to build up time reserves through working time accounts or flexitime, and personnel staff were tied up with designing and administering a myriad of different shift patterns. Absenteeism was high, so was staff turnover. Patients also suffered from lack of continuity in terms of who looked after them, many had to endure long waiting times for emergency services, long waiting lists for surgery, and a restrictive regime as in-patients.

### **REFORMS HAVE RESULTED IN BETTER SERVICES**

This first attempt at reform was based on an ad hoc and voluntary approach, but this failed to produce any major changes. A staff survey, conducted with an outside research institute, found, to most people's surprise, that working hours and working time flexibility were the number one concern for employees, and considerably more important than wages and earnings. A new system, introduced in 1995, required everyone, irrespective of their position in the hierarchy, from consultant doctor to cleaner, to clock in and out. Overtime, flexitime and new working patterns were introduced in all parts of the hospital.

Key to making the new system work was finding a software company able to provide an integrated solution to shift design and wage administration. The new IT system made it possible to decentralize time management to each clinical department. It saved five and a half central administrative positions previously concerned with calculating shift payments and transferred these to other tasks. And, importantly for making the new system acceptable, it made payments transparent and ensured that employees were paid accurately and on time.

Under the new working time system the standard operating day runs from 7am to 9pm. During this period the hospital is fully staffed. As these are standard working hours no unsocial hour payments accrue for time worked during that period. In some wards, such as in intensive care, a 24 hours shift model continues to apply. Other night services are provided mainly on an on-call basis.

The principle is that there has to be a continuous break for eleven hours between shifts and that daily working hours should not exceed 13 hours. Basing working time on this model means that changes in work organisation can take place for the benefits of patients, but also for staff. In practice this means that a 13-hour shift is made up of 8 hours plus 5 hours standby or on call. The maximum full shift is 10 hours. As a basic principle all employees are entitled to flexitime. The Senior Consultant doctor for each medical department is responsible for determining basic staffing needs and how these are filled is decided by each team. There are several different models for part-time work and the team plays a major role in their design.

<sup>26</sup> Case presented by Helmut Zinsmeister, Chair of the Works Council, Ver.di.



**THE BENEFITS OF THE NEW TIME MANAGEMENT AND FLEXIBLE WORKING SCHEME**

Employees are measurably happier with their working time arrangements. Productivity gains and savings have been used to create 28 new jobs for doctors. Services have been improved for patients. There has been a measurable reduction in staff shortages, staff turnover and absences.

**CHALLENGES FOR THE FUTURE**

Working hours for junior doctors are also a problem in Ingolstadt. The challenge in terms of implementing the Working Time Directive is to ensure that there is sufficient time for training and development. Another challenge is to ensure that junior doctors themselves adhere to new working hours. Incentives for junior doctors to be on-call are high, not just for financial reasons, but also to be there when an interesting case arises. The question is how to ensure a fair distribution of high profile work without relying on a first come/ always there basis.

Another challenge lies in turning flexible working from something seen as a solution for women caring for children or relatives, to something relevant and acceptable for all employees. While part-time employment is high in the hospital, it continues to be rare for doctors. Currently of 285 doctors, of whom 40% are women, only two work part-time. Part-time work is still perceived as a potential career impediment. Therefore, making a wider range of working hours acceptable for doctors remains an important challenge. Nevertheless, the Ingolstadt model has brought benefits to all categories of health workers, including doctors, while at the same time creating better service for patients.

## Case study 7: CHANGING TIMES IN HEALTH SERVICES: CROYDON PCT PARTNERSHIP WORK-LIFE BALANCE PROJECT<sup>27</sup>

*“Changing Times in Health...puts the business case for flexible working and demonstrates how you can have a win-win fit between staff and users’ preferences” Alastair Henderson, NHS Employers*

*“I now have more time to do my garden; it’s great I can get so much more done when I work compressed hours; and the quality of my work has improved. I was a sceptic to begin with, but now I’m all for it” (Health Visitor who participated in a pilot project to develop a team based approach to improve the quality of services to clients).*

### INTRODUCTION

The project was led by SW London Strategic Health Authority and trade unions in the health sector. Croydon Primary Care Trust was the location for a pilot for the development of partnership working to improve staff working lives. Key issues from the employers’ perspective were the need to recruit and retain staff at a time of significant problems in recruiting staff and the need to continuously improve and extend service delivery by providing services at times and locations that were requested by customers.

The project sought to explore different options for working time in order to contribute to improving working lives and work-life balance for staff and improve service delivery, to embed and implement work-life balance across the PCT through partnership working, and to improve the capacity of managers to effectively manage new working time options.

### TUC CHANGING TIMES MODEL

The project was based on the TUC’s partnership model for work life balance *Changing Times*, which emphasised the importance of partnership, wide consultation and team working. The TUC Changing Times process begins from the starting point that work-life balance requires a reorganisation of work, the development of trust, partnership approaches, and joint problem solving. This marks a shift in employee-management relations with a move towards consensual, joint and partnership working as a key instrument of the process of change. The process puts an emphasis on the need to ask employees about their preferred working patterns, and to involve staff in identifying problems and finding solutions. The benefits of partnership working are wide ranging from group problem solving and developing common goals to the development of organisational improvements, teamwork and organisational learning.

### CHANGING TIMES IN HEALTH RESOURCE KIT

A *Changing Times in Health Resource Kit* was published providing guidance and practical examples to assist other health organisations with the development of work-life balance initiatives. It includes advice on carrying out staff surveys, focus groups and embarking on team working; different work-life balance and flexible working hours options that can be considered; guidance to staff and managers about negotiating and handling requests for flexible working hours; and advice in setting up and running a partnership forum.

### PARTNERSHIP AND TEAM WORKING

The most important aspect of the project was the Changing Times in Health Partnership Forum made up of representatives of staff, unions and managers across the Trust was established to problem solve, develop solutions, champion and monitor the changes. This oversaw the focus groups, the survey and consultations that took place during the project. Pilot projects were also established in three staff groups to examine how team working could result in changing working times.

The project helped to make work-life balance and flexible working a reality for staff in the Trust. It assisted the Trust in responding to and supporting staff preferences for flexible working hours and provided specific practical and policy guidance to managers in the Trust. Positive outcomes of working through a partnership approach were that staff are more flexible and prepared for organisational change and the organisation was more able to be innovative, creative and productive.

<sup>27</sup> Case presented by Pam Johnson, UNISON and Marisa Howes HHS SW London Strategic Health Authority.

Key findings from the staff survey indicated that staff that experienced their role as demanding were more likely to be working longer hours and to report greater conflict between their work and home life. Managerial support for work-life balance was related to lower work-life conflict, and higher job satisfaction and organisational commitment. Having control over one's working patterns also helped to reduce conflict between work and home-life. The survey also highlighted the demands placed on staff, long working hours and a preference expressed by many staff for a range of flexible working methods.

### **HEALTH VISITORS PILOT PROJECT**

One pilot project involved a team of Health Visitors who volunteered to pilot a compressed hours scheme on the basis that it would contribute to improved service delivery, improved working lives and work-life balance. The interest in the pilot was a response to anecdotal evidence that parents in the Shirley area that are working are often unable to access the health visiting service. A key issue was raised about enabling working mothers and fathers to access the service, thereby encouraging their participation in family life and enabling working mothers to have a quality of service outside of working hours.

Consultations with service users confirmed the preference for an evening clinic and evening home visits. The working time arrangements were agreed and staff participating in the pilot worked a nine-day fortnight. The pilot received a very positive response from clients and staff alike. Clients appreciated the opportunity to use the evening sessions and staff found the compressed hours scheme to be "an attractive incentive in the recruitment and retention of staff". It promoted effective team working and staff found the opportunity to develop the pilot to be beneficial to team working relationships. The team also felt that there were benefits including better quality of life and being able to plan the workload more effectively in a structured manner. The benefits to the organisation were that the team spirit in the clinic boosted morale, since the staff themselves carried out the pilot and came forward with the proposals to improve service delivery. Staff said that they were more motivated and committed and that their job satisfaction had improved.

### **SUCCESSSES**

The project was broadly supported by managers, staff and unions. The Partnership Forum was a success and this has the effect of enhancing interest in union activities at a time when union activity was at a low point. Key areas of learning in the project included the importance of staff consultation and partnership working, and ensuring that change is effectively anchored into the culture and leadership of the organisation.

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## Case Study 8: NEW WORKING TIME AGREEMENT IN THE DANISH PUBLIC SECTOR<sup>28</sup>

*“[The agreement] can have a positive effect by striking the right balance between flexibility and security... with the possibility for more flexible working time arrangements, based on agreements between the local partners.”*

**Hanne Johannessen, StK trade union**

*“The New working time agreement for the public sector is a good example of the ‘Danish model’, where the social partners by way of negotiations come up with solutions to labour market issues. One of the strong points of the agreement is that it, to a much larger extent, makes it possible to conclude local agreements, which are adapted to the specific needs of the individual work places in terms of working time.”*

**Tina Møller, LO Confederal Secretary, Denmark**

Simplifying and decentralising working time rules so that the social partners have a flexible tool to conclude agreements at the workplace and thereby improve work-life balance has been the objective of a new framework agreement in the Danish state sector. In 2005 a framework agreement a far reaching agreement on working time was concluded by the Danish Central Federation of State Employees (CFU) and the Ministry of Finance, as part of the 2005 collective bargaining round. The StK trade union body which is the association of state employees’ organisations has also been a signatory to the agreement and has been responsible for carrying out a number of information activities to publicise the agreement, including a ‘road show’ information campaign which is targeted at its member unions and shop stewards. The social partners have also examined ways to make the agreement more accessible including the issuing of a joint circular in partnership with employers,

This is a significant step for the social partners who have, for more than 20 years, been engaged in working time discussions without agreement. The new agreement will run from October 2006 to March 2008 covering all statutory civil servants in the state sector and the majority of contractual staff. The agreement simplifies the existing set of extensive and complex working time rules, which have been hard to implement in practice, and decentralises working time regulation to local actors. The old 21 page working time rules have been replaced by a 5½ page long framework agreement. The planned circular will accompany the agreement with examples of agreements and approaches to working time negotiation between the social partners. The agreement covers the duration of working time, the make up of working time and payment for overtime, and identifies a number of working time issues that are no longer regulated centrally.

The agreement has resulted in a new structure consisting of a common set of rules and two sets of specific rules (covering workers on standard day time hours and those working outside of standard day time working hours).

### **WORKERS HAVE MORE SAY OVER THEIR WORKING HOURS**

The agreement not only gives workers better protection in their working hours by defining training and travelling time as standard working time, it also gives workers more say about their working hours by adapting working time regulations to the needs of the individual workplace.

### **THE BENEFITS OF A DECENTRALISED APPROACH**

The benefits of decentralisation are that it makes it possible to achieve working time agreements that are adapted to the diversity of individual working time preferences and individual work places. Supplementary rules will be drawn up to inform the scope and implementation of local responses which can be achieved through dialogue at the local level. This model presupposes active partnership between managers and shop stewards at local levels and is typical of Danish approaches to collective bargaining whereby local responses are developed in response to the parameters set out in national framework agreements.

<sup>28</sup> Case presented by Hanne Johannessen, StK, Denmark

# Section 5

## Partnership approaches to flexible working time

### 5.1 Introduction

Partnership working and joint problem solving have enabled staff to examine different working time arrangements, in areas such as annualised hours, compressed hours, flexible hours, including part-time work, job-sharing, term time working, working time accounts and time banking.

This section shows that partnership working is the glue that binds modern approaches to working time between unions and employers together. This is a theme that has run through all of the case studies profiled in this report.

In the case studies presented in this section flexible working time options provided opportunities for staff to gain work-life balance were developed through partnership approaches in order to directly improve production and competition. Although not always initiated by unions themselves, they reflect modern human resource practice that values the role that unions have to play in negotiating appropriate and sustainable solutions and a win-win. In several cases this was a new departure for companies and the process of partnership working has helped to establish the credibility and value of the social dialogue at company level.

#### **In summary, the case studies show a number of key elements of change resulting from new flexible working practices:**

- A regulatory framework that allows adjustments in working hours to be negotiated at company level provides the basis for working time flexibility to be agreed through a social partnership approach.
- Working time solutions that put ceilings on excessive working hours and reduce excessive overtime have not been found to adversely affect productivity; in contrast more efficient working time arrangements have been shown to increase productivity and company efficiency.
- Social partnership and the social dialogue are conducive to modern day human resource management strategies.

## Case study 9: A WIDER TIME CORRIDOR FOR THE AUSTRIAN METAL WORKING AND MINING INDUSTRY<sup>29</sup>

*“The social partners successfully agreed on a very innovative mechanism to deal with medium to short term changes in demand...and introduced several measures to make it much more attractive to give time off instead of higher pay.”*

**J. Gartner, Board Member of the Working Time Society**

In 1997 a new collective agreement came into force in the Austrian metalworking and mining industries. The agreement gives employees more time-off in exchange for greater scope for employers to vary working hours.

### **A TIME CORRIDOR OF BETWEEN 32 AND 45 HOURS PER WEEK**

Prior to the agreement it was possible to vary weekly working hours between 37 and 40 hours per week, as long as average weekly working hours did not exceed 38.5 over a 13-week-reference period. Under the new agreement, this reference point for the average working week remains at 38.5 per week, but the reference period is extended to one year. Employers can vary weekly working hours between 32 and 45 hours per week, to a daily maximum of 9 hours. Overtime hours accrue if an employee works for more than 40 hours a week. However, under the old system, overtime had to be paid in money at 150% of the hourly rate. Under the new agreement, the overtime bonus is reduced to 125% and is given as banked time rather than as monetary compensation. Instead of paying the 125% time off premium for agreed weekly hours of more than 40, it is also possible to negotiate compensatory shorter working hours, with no loss of pay. Thus employers gain greater flexibility as well as an effective reduction in the cost of overtime hours.

### **FROM OVERTIME TO TIME-OFF**

Employees can bank up to 80 hours in their working time account. Time-off can be taken in units of one day. The employee has to give one-month notice for taking time off, and can either take a day per month or can take up to half of all the save time at once. The system includes incentives for the employer to make sure that time-off is actually taken: any time not spent at the end of the one-year reference period has to be paid out at a ‘penalty rate’ which amounts to 187% of the basic wage for each extra hour worked. Works council, union and management can negotiate a three months grace period. It is possible to save up to 120 hours but only if time-off for hours above 80 is given in whole weeks.

Employees who leave their job voluntarily or are culpably dismissed are entitled to be paid for any remaining time in their working time account at the standard rate. Employees who are dismissed due to no fault of their own are entitled to be paid off at the higher 125% rate.

### **A FOUR-WEEK PLANNING HORIZON CREATES PREDICTABILITY**

The agreement stipulates a planning framework of 4 weeks for deciding on the basic length and distribution of working hours for the next planning period. If it is not possible to plan ahead for the whole planning period, employees must be notified of the working hours at least two weeks in advance. The scheduling of working hours is subject to the agreement of both the works council and the union. Where it is necessary to change schedules with less than two weeks notice, employees have the personal right to refuse the new hours.

The agreement leaves considerable flexibility for decentralised and localised working time solutions. Companies are free to devise, in cooperation with works council and union of course, different working time arrangement for different departments to respond to production and customer demand in each.

### **GIVE AND TAKE**

The agreement was concluded at the instigation of employers who were seeking greater flexibility in the adjustment of working hours to fluctuations in production requirements. Nevertheless, the negotiations, between the GMT, the union for Metal and Textile Workers, and the eight corresponding employer associations were intense and took over six months. The union was not willing or able to give something for nothing. Greater flexibility was fine as long as employees also saw clear benefits under the new system. Critical points in the negotiations were the time-and-a-quarter arrangement for banked overtime; the administrative time horizon for setting working time schedules; and the ability of employees to decide on time-off with four weeks notice.

<sup>29</sup> Case presented by Manfred Anderle, Gewerkschaft Metall-Textil (GMT)

For employees the main problem was excessive overtime. A survey conducted in 1998 found that average working hours had increased substantially in the three preceding years. Over a quarter of employees worked overtime every week. 20% of men had seen an increase in their working hours during that period, and 40% of women. Employees were content to trade-off overtime pay for additional time off.

Even though the agreement was concluded at the instigation of the employers so far only 5% of companies have introduced it. Why the take-up is rather low is not clear – employers seem to prefer muddling through with higher overtime premiums to a more systematic approach to flexibility requirements. Where the agreement has been introduced, for example in BMW component plants, it works well, offering both increased flexibility to the employer and more time-off for the employee.

### **Case study 10: CSC ENERGIE CHIMIE: INCREASING PRODUCTION CAPACITY THROUGH THE INTRODUCTION OF A NEW WORKING TIME SYSTEM**

#### **A PARTNERSHIP APPROACH**

The CSC energy union organises workers in the chemical industry in Belgium. A new approach to working time was introduced in 1998 and continues to operate successfully today. As a result of an increase in production volumes the company Ampacet SA (Messancy) sought to increase production from five days a week to seven days a week. A project team was put in place headed by the CSC/ACV trade union, trade union officials, and representatives of the management of the company and of the Belgium professional employers' federation. The trade union official in the company at the time describes the objectives as "to ensure growth of the company's activities and increase employment without deterioration in working conditions" (F Laurent). The working time system was introduced following changes in legislation, which provided a legal framework for negotiating working time.

#### **INTRODUCTION OF A NEW SHIFT SYSTEM**

A proposal was made to change the shift system from three shifts that operated during a five-day week (6.00hrs–14.00hrs; 14.00hrs–20.00hrs; 20.00hrs–6.00hrs) to five shifts that operated on a seven-day week. As a result of partnership working, and in order to not adversely impact on the quality of working life, it was agreed that the three shift system operating five days a week would be maintained but that two new shifts would be introduced at weekends on a voluntary basis enabling week time workers to work shorter weekend hours with no loss of their full-time pay. A further benefit for staff was that weekly working hours for those working the week shifts were reduced by two hours a week to 36 hours, implemented through a six-hour shift on Fridays, which contributes to their work-life balance. Weekend workers had their hours reduced to 27 hours, whilst maintaining the same wages as the five-day week workers.

Those people that chose to work weekends were given the option to return to standard working hours at any time. For some people weekend working gave them more freedom and choice, whilst for others family or other commitments made weekend working impossible. The crucial issue was that people had the choice.

#### **A POSITIVE BENEFIT TO STAFF AND THE COMPANY**

The new system has had a positive impact on both the activity on the site, whilst also creating jobs and ensuring that family life was not adversely affected by the changes introduced. The "24 hour operation has given a major boost to the company's competitiveness since equipment is used for longer and the company is able to offer shorter deadlines for completing orders". The changes have been widely welcomed by staff as well. The system has introduced greater stability for staff, with less changing between week and weekend work, and more recent negotiations have resulted in pay increases and reduced working hours for week and weekend staff. The impact of the changes is that employment levels have risen by around 20% and new workers have been employed on permanent contracts.

## **Case study 11: AGREEMENT AT DCN COMPANY IN BREST ON THE ORGANISATION OF WORKING TIME<sup>30</sup>**

### **A NEW WORKING TIME MODEL TO ENHANCE PRODUCTION CAPACITY**

In Brest in France the DCN military shipbuilding company signed two agreements with union representing staff in the Ministry of Defence and the local trade union in Brest. The CGT and CFDT unions that took part in the negotiations and all the respective organisations signed the first agreement except the CGT and FO; all organisations except the CGT signed the second agreement. The DCN company was formed as a public company in order to facilitate changes in the management of naval shipbuilding.

### **A PARTNERSHIP APPROACH TO THE SOCIAL DIALOGUE**

The agreement sought to overhaul the organisation of working time, linking human resources to the organisation of production. As the trade union representative in the company stated: “The resulting new situation offers the company fresh economic prospects, organises working time in a more flexible manner and brings social relations within the company more up to date”.

This was a novel departure for the unions and management who were not used to working within a partnership context and for whom the social dialogue enabled the expectations of workers to be considered in company restructuring programmes. A key feature of the negotiations was that workers were regularly involved and informed, through meetings and regular written information about the negotiations.

### **THE IMPACT ON WORKING TIME**

Both non-managerial and managerial staff have benefited from changes in working time. According to the trade union official from the CFDT “From the working time point of view, the main progress made concerns the greater flexibility offered to workers for completing their working hours, giving them greater freedom. This advantage, added to more holiday time, not only improves their working conditions, but also affords them a better balance between work and private life”.

Non-managerial staff traded more flexibility with improved employment practices around variable hours. Prior to the agreement staff worked variable hours with a short 1-hour window for their arrival and departure times. The agreement extended the duration of these time slots to 90 minutes for production staff and 3 hours and 15 minutes for administrative staff. This enabled the company to extend its production times, to meet its orders more efficiently and to be sustainable in the longer term.

Whilst managerial staff, in theory, worked the same hours as non-managerial staff (37.5 hours), in practice many additional hours were worked without compensation. Under the agreement managerial staff switched to an innovative annualised working time framework, based on a model of compressed hours. This framework sets a lump sum total number of working hours. Managerial staff work 210 long days a year with no overtime during that period. Working days are from 7.30-18.30 hours. The advantage of this situation is that managers get more holiday and free days during the year and their working time is synchronised more effectively with the reality of their duties and production schedules. A clocking in and out system is also designed to ensure that the daily limit of eleven hours is adhered to and that any excesses in working time can be monitored.

### **SUCCESSSES**

The agreements signed in 2000 and 2004 have had the effect of modernising work organisation in the company, to improve capacity and production in order to meet customer expectations and complete orders on time. Daily operations now run more smoothly in the company and staff have achieved improved work-life balance as a result. Gaining increased number of annual days off has been widely welcomed, and managers in particular have been protected from slipping into a long hours and over working culture. Non-managerial staff have also benefited from more rest days.

This agreement was particularly important to achieve because a significant number of managers and staff are now employed under private law contracts rather than public service contracts of employment. A wider impact has also been achieved in that the social dialogue is now firmly embedded into human resources practices in the company. In particular, this has been achieved by implementing the social dialogue at the local level regarding adapting changes and applying flexibility to local situations.

<sup>30</sup> Case presented by Didier Prono, Confederal Secretary French trade union confederation CFDT.



**Case study 12: CZECH REPUBLIC: ČEZ DISTRIBUCE, A. S. PROJECT<sup>31</sup>****BACKGROUND**

In the Czech Republic working time is regulated through the Czech Labour Code (Section 83-110c), which sets out the statutory framework working time. This provides for standard working time at 40 hours per week, flexible working time concerning daily, weekly and monthly working time, rest breaks, maximum overtime and annual leave.

The project concerned the introduction of collective bargaining for a new company, ČEZ Distribuce, which had transferred employees from five regional distribution companies. As a result of collective bargaining an agreement was signed on 1 September 2005. The agreement was negotiated by a team of experts consisting of employees and representatives from the distribution companies. The agreement sought to achieve a reduction in weekly working time from 40 to 37.5 hours, following a model established in other company agreements.

**A NEW AGREEMENT HAS IMPROVED WORKING TIME ARRANGEMENTS**

The agreement has successfully introduced working time flexibility to the benefit of employees and employers, by reducing working hours and overtime, and extending annual leave. This is viewed to be important for work-life balance and the reconciliation of work and family life. Greater possibilities for individual choice were agreed including choice of rest breaks and flexible working time. This has particularly benefited working parents. For the company there is greater possibility for production levels to be maintained through flexible working times that respond to variations in production schedules.

**PARTNERSHIP IS CENTRAL TO IMPLEMENTING THE AGREEMENT**

A key feature of the process was the importance of finding a compromise between the demands of the employee representatives and the employer representatives. One trade union office described this as a “collective effort carried out in a process of bargaining by equal shares”. Separate trade union meetings were also held before each bargaining meeting in order to agree the parameters for this.

31 Case presented by Jaroslav Kreuzer and Vít Zvánovec, Czech trade union confederation CMKOS

# Section 6

## Flexible working time and individual choice

### 6.1 Introduction

Recently in several countries there have been a number of important policy changes that have resulted in new entitlements concerning greater individual choice and flexibility in working hours. **Ariane Hegewisch** compared the different approaches taken in legislation providing workers with the right to request changes in working hours (Germany, the Netherlands and the UK). **Jo Morris** raised the question about how trade unions can rise to the challenge of increasing the emphasis on individual choice in working hours and the growing expectations of workers to have working time solutions tailored to their own work-life interests and needs.

### 6.2 Choice and flexibility: new statutory approaches in Germany, the Netherlands and the UK

**Ariane Hegewisch**<sup>32</sup> presented some findings of recent research on legal rights to request individual changes to contractual working hours in Germany, the Netherlands and the UK. These laws give individual employees the right to ask for an increase or reduction in their contractual working hours (in Germany and the Netherlands) and/or a change in the scheduling of hours or a move to working from home (in the UK).<sup>33</sup> The laws were a broad response to the 1997 Directive on Equal Treatment for Part-timers; they are aimed at increasing labour force participation and human capital utilisation, particularly from mothers, by making it easier for employees to obtain quality part-time work and work schedules that fit in with family and non-work commitments. In the Netherlands the law had the specific purpose to create greater diversity in working time patterns and choices over the lifetime and of facilitating a more equal share of paid work between couples, with a goal of both partners working 75% of a full-time job, rather than the current situation where women typically have very short part-time jobs and men work long hours. German unions also saw the law as one response to unemployment: where people voluntarily reduce their hours, the 'freed' hours can lead to job opportunities for someone currently unemployed.

#### **A right conditional on fitting in with the business case**

The three countries have adopted different approaches to these new rights. In the UK the right to flexibility applies only to parents of children under the age of six (under 19 if the child has a disability), and only if they need the change specifically for childcare reasons; from April 2007 employees can also request change if they are caring for an adult relative. In contrast in Germany and the Netherlands all employees are covered (albeit excluding those working for small firms), irrespective of their reasons for change. Wanting a change to go to college, write a book, reducing hours before retirement or volunteer in the community are seen as just as valid reasons as family responsibility. In each of the countries, however, the employer has a right to reject the request if there are business or operational reasons (such as health and safety concerns or the inability of recruiting a replacement for example) which make it difficult to accommodate the new working practice.

The rights of employees are weakest in the UK where the employer is only obliged to respond to the request for a change in working arrangements within a set time period and using set procedures, but is under no obligation to justify their business or operational reasons for refusing the request. Working mothers in the UK arguably have a stronger legal case for changed working hours by making a claim for indirect discrimination under the Sex Discrimination Act. The UK Disability Discrimination Act also

<sup>32</sup> Research Fellow, Centre for Work-Life Law, Washington DC

<sup>33</sup> UK Right to Request Flexible Working (April 2003), German Part Time and Fixed Term Contract Act (2001) and the Dutch Working Time Adjustment Act (July 2000).

requires employers to make reasonable adjustments in the workplace for disabled employees. Refusing a disabled person the flexible working arrangements would constitute discrimination under the Act.

### **Some success in practice**

In all three countries employees have successfully requested change. Requests for part-time work have been highest in the Netherlands where 15% of employees requested reductions (and an almost equal number requesting additional hours). Sixty per cent of these requests were fully accepted. In the UK, 14% of employees have requested some change, of these 25% were for part-time work and 22% for flexitime. Sixty-nine per cent of requests were fully accepted. In Germany, less than 1% of employees requested changes in working hours with a smaller number requesting an extension of working hours; of these well over 90% were accepted. In Germany, the low rate of requests can in part be put down to a combination of the deteriorating state of the economy and record levels of unemployment.

In all three countries there is little evidence to suggest that the introduction of the legal rights in themselves led to a significant increase in requests for new working patterns: at least in the Netherlands and the UK such requests were already similarly high before the laws came into force. Employers however seem more likely to accept requests; in the UK the number of refusals has halved since the Right to Request came into force. In the Netherlands on the other hand there was little reason to expect major changes in requests because collective agreements between employers and trade unions had provided similar rights since the early 1990s. That said, employees' rights and employer attitudes were undoubtedly strengthened by a number of successful legal cases shortly after the Dutch law came into force.

### **Men are requesting flexibility too**

The evidence also suggests that men are starting to make more demands for changed working patterns. Men are between a third and a quarter of those asking for new working patterns, although they still find it harder to have their requests accepted. Some men are looking for change to become more actively involved in childcare; however overall it continues to be women who make adjustments for family reasons, particularly adjustments which involve a cut in hours (and hence income) whereas men are much more likely to want change for educational reasons or simply as a quality-of-life issue.

Examples of successful changes in working hours can be found across all kinds of work and professions but they are much less common in managerial jobs or male manufacturing jobs. Most importantly, the number of people saying that they would like to work fewer hours continues to dramatically outstrip those who actually request a change in hours, in all three countries. Evidence suggests that only between one quarter and one half of all people who would like to change their working hours actually ask for changes. This is put down to fear of adverse effects on job prospects, job security and work climate, a belief that the employer would not accept their request, or that they would not be able to keep their job.

### **Individual rights are less effective without a collective and regulatory framework**

It is important also to note that Germany and the Netherlands are countries with more comprehensive approaches to working time flexibility. Working time legislation is transposed into collective bargaining and social partner negotiations, and both countries have union coverage and influence that is greater than in the UK. In both Germany and the Netherlands negotiations over working time flexibility set clear limits on working hours.

In Germany this principally takes place through collective bargaining (which continues to cover directly the majority of the workforce and is taken as a reference point for other employers), and in the Netherlands through legislation and collective bargaining, again covering the large majority of the workforce. In contrast, in the UK there is no effective limit on working hours, because of the individual opt-out from the Working Time Directive. There is also a lower coverage of collective bargaining and employee rights to consultation and participation in relation to working hours. In practice employers have less of an incentive to creatively examine working hours, in contrast to Germany and the Netherlands. Progress can be made if there is a combination of collective agreements and a broad regulatory framework. There is also a need for detailed workplace negotiations to achieve tailored solutions and a change in culture.

Individual working time rights are valuable and attractive to employees, but they are no substitutes for broader controls on working hours or for coping with the requirements of the 24/7 society. Unsurprisingly, the UK Right to Request has made little impact on the long hours culture, and hence little impact on the need for female carers to cut down their working hours (and earnings and pensions entitlements). Few incentives are given to employers to develop more rational and productive ways of organizing work, compared to the situation in Germany and the Netherlands; as well as many other European countries. The win-win flexibility which has been developed in many Dutch and German organizations is less the result of individual working time rights and more due to the need to find new working time solutions within a framework of social partnership institutions at workplace level.

The narrow UK approach to flexible working rights means that working time flexibility does not extend to areas such as lifelong learning as exists in Germany and the Netherlands. The use of working time accounts and working time flexibility to support gradual retirement by statute or collective agreements is a possibility that remains under-explored in the UK.

Finally, the comparison with the Netherlands and Germany demonstrates the benefits of a wider framework of working-time policies and a social partnership approach to working hours. To turn flexible working from marginal to mainstream requires a change in attitudes from employees as much as employers, one that is unlikely to be achieved by a one-sided approach to the organization of work.

*“The UK is world-champion defending the fundamental right of any individual to ‘choose’ opting-out of working time protection and working long hours. However, in doing so, they reinforce the traditional division of labour between men and women and limit their opportunities to choose outside traditional family roles, with men forced by circumstance to work long and unhealthy hours and women imprisoned in small and dead-end part time jobs. In such a situation, offering individual workers ‘the right to request flexible working’ is positive as a first step, but can only have a very limited effect. The so-called freedom to choose long hours – although presented as a powerful argument – therefore has to be demystified as a false argument, standing in the way of developing a more modern society based on equality of opportunity for men and women.”* Cateleene Passchier, Confederal Secretary ETUC

### **6.3 How can trade unions bring work organisation and working time to the centre of people’s lives?**

The question about how to reclaim flexibility was the subject of a presentation by **Jo Morris, TUC**. An increased emphasis on individual choice poses real challenges for trade unions, which deal with collective issues. A key issue is how equal opportunities can be squared with equity for the whole workforce. Whereas in the past the emphasis has been on equal opportunities between women and men, there is now a need to look at working time issues for a much wider group of workers to achieve equity. Mechanisms need to be in place to ensure that there are no grounds for resentment from full-time staff who may be forced to work unpopular shifts.

There is an inherent tension between personal versus corporate needs; while workers need flexibility they also need predictability about when and where they work. Often national trade unions understand the issues, but trade unions on the ground may be more focussed on issues of job security and may resist change in areas where they have reached an accommodation with employers. Similarly there may be resistance from managers who may be unsure about how to manage working time issues in practice.

Because working time is an intimate and personal issue, it requires new expressions of social partnership at local levels that recognise that people work in different ways at different times of their lives. Trade unions are increasingly involved in new proactive problem solving roles with management and this has opened up new possibilities for trade union members. In this way social partnership working may also capture the imagination of people who are not normally involved in trade union negotiations. For example, it can attract women into unions, as flexible working time is an issue that concerns women.

*“Partnership working around working time can galvanise members and improve the image and profile of unions. In some cases this helps unions to increase their membership by involving people who would not normally see themselves as trade union activists, whilst also bringing new skills and perspectives to unions.”*

**Jo Morris, Senior Quality and Employment Rights Officer, TUC**

# Section 7

## The fundamental right to limitation of working hours

### 7.1 Introduction

This section explores working time policy issues, particularly the regulation of working hours and the objective to end the opt out of the Working Time Directive. Strong regulation, setting out minimum standards on maximum hours, provides for the backbone, and the bottom in competition, on the basis of which unions can play their crucial role in negotiating and agreeing working time arrangements through partnership working. Putting limits to long and irregular hours and unhealthy working time patterns such as night work through regulation is considered to be an important backdrop to flexible working time. Limits on working time are also vital to enable working parents to combine their jobs and family responsibilities, and allow women to exploit their full potential in the workplace. This is one of the key elements of the EU's Lisbon Strategy for growth and employment.

Following on from this is a discussion about the future shape and focus of the European social model and the scope of Working Time Directive, which has been at the forefront of trade union campaigns in recent years.

**Fernando Pereira** set out the European Commission's objectives under the proposed revised Working Time Directive to meet the needs of both employers who require greater flexibility from their staff as the needs of workers with regard to the protection of their health and safety. Creating a social Europe with strong regulation and an end of the opt out from the Working Time Directive, argued **Alejandro Cercas MEP**, had been at the forefront of European Parliament's opposition to the European Commission's proposals for revising the Directive. Similarly, **Jean Lambert MEP** emphasized the importance of the limitation of working hours to guarantee health and safety at work. **John Monks** argued that in an increasingly global economy and with the advent of a European labour market, the role of minimum social standards, including the regulation of excessive working hours has become even more critical. Concluding, **Catelene Passchier** called on trade unions to refocus their activities and take a modern approach through partnership working and joint problem solving.

### 7.2 Revision of the Working Time Directive, why and how?

#### The 1993 Working Time Directive

The 1993 **Working Time Directive** (93/104/EC) set an average 48-hour maximum working week and established a number of requirements for rest and leave periods. The Directive seeks to promote health and safety at work. The key provisions of the Working Time Directive:

- Maximum weekly working time of 48 hours on **average**, including overtime, to be counted over a reference period of maximum 4 months
- Minimum of four weeks paid annual leave
- Minimum rest period of 11 hours in each 24 hours, and one and a half day in each week
- A rest break if the working day is longer than six hours
- A maximum of eight hours' night work, on average, in each 24 hours

The original Directive excluded workers in air, road and rail transport, fishing and maritime activities, and doctors in training. The **2000 Revision (Directive 2000/34/EC)** extended the Directive to cover these workers that had been excluded, including the incorporation into the Directive of agreements in the maritime and civil aviation sector. A new Directive in 2002 extended the provision to the road transport industry. Member states had to apply the amendments by August 2003 and in the case of trainee doctors by August 2004.

The original Directive 93/104/EC, adopted in 1993, was amended in 2000 by Directive 2000/34/EC and the two have now been consolidated into Directive 2003/88/EC<sup>34</sup>.

<sup>34</sup> Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time and Council Directive 2003/88/EC of the European Parliament and the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

Since its foundation, the EU has committed itself to limiting working hours, progressively reducing the length of the working week, and improving and harmonising conditions for workers throughout Europe. This is reaffirmed in the EU Charter of Fundamental Rights, which declares that “every worker has the right to limitation of maximum working hours, and to daily and weekly rest periods”. In addition, the Working Time Directive in its preamble clearly states: “the improvement of workers’ safety, hygiene and health at work is an objective which should not be subordinated to purely economic considerations.”

The European Working Time Directive of 1993 is a very important achievement at EU level, establishing minimum health and safety requirements. It lays down minimum periods of daily rest, weekly rest, annual leave, breaks, maximum weekly working time of 48 hours, night work, shift work and patterns of work. Its minimum requirements bind all Member States of the European Union, and prevent employers putting pressure on workers to accept long and irregular working hours.

The EU also has a wider obligation to the rest of the world to take a lead in demonstrating that sustainable economic development and growth can be achieved at the same time as safeguarding and enhancing the interests of workers and their families.

The current Directive is already very flexible. It establishes a maximum 48-hour working week, but permits working time to be averaged out over four months, thus allowing working weeks of more than 48 hours to be compensated by shorter working weeks.

In addition, it incorporates two far-reaching derogations, allowing for almost unlimited extensions of working hours. The four-month reference period can be extended to one year (although only in specific cases, on the basis of collective bargaining). The other derogation enables Member States not to apply the maximum 48-hour limit at all, on the basis of voluntary agreements with individual workers: the so-called ‘opt-out’.

The Commission was under a legal obligation to re-examine these two derogations within seven years of the Directive’s implementation in November 2003. More recently, a new question has arisen following rulings by the European Court of Justice (ECJ) that on-call time in the workplace is working time. Some Member States have resisted these judgements and used them as a pretext for applying the opt-out, especially to doctors working on-call in hospitals and other health sector workers.

### **The SIMAP and Jaeger cases in the European Court of Justice**

Two judgements have been important in defining working time. In the SIMAP and Jaeger cases the Court ruled that ‘on-call working time’, i.e. when the employee must be available in the workplace, must be defined as working time under the Directive. The SIMAP judgement concerned a case brought before the European Court of Justice on behalf of a group of Spanish doctors. The ruling declared that all time spent resident on-call would count as working time. The European Court of Justice judgement on Jaeger, concerning the application of on-call in a German hospital, followed the SIMAP line, but clarified that this also means that compensatory rest time must be available immediately after the working period..

In the Simap-case, the ECJ stated that (49) “the objective of the Directive is to ensure the safety and health of workers by granting them minimum periods of rest and adequate breaks...to exclude duty on-call from working time if physical presence is required would seriously undermine that objective.”

In the Jaeger-case (points 69 and 70), the ECJ explicitly stated that (69) “Directive 93/104 precludes national legislation...which treats as periods of rest periods of on-call duty during which the doctor is not actually required to perform any professional task and may rest but must be present and remain available at the place determined by the employer with a view to performance of those services if need be or when he is requested to intervene.

*(70) In fact that is the only interpretation, which accords with the objective of Directive 93/104, which is to secure effective protection of the safety and health of employees by allowing them to enjoy minimum periods of rest. That interpretation is all the more cogent in the case of doctors performing on-call duties in health centres, given that the periods during which their services are not required in order to cope with emergencies may, depending on the case, be of short duration and/or subject to frequent interruptions and where, moreover, it cannot be ruled out that the persons concerned may be prompted to intervene, apart from in emergencies, to monitor the conditions of patients placed under their care or to perform tasks of an administrative nature.”*

For these reasons, the EU is currently reviewing this key legislation. In September 2004, the Commission put forward the following proposals:

- Keeping in place the individual ‘opt-out’, whereby employers can agree with individual workers not to apply maximum working hours, but with tighter conditions;
- Defining so-called ‘inactive parts’ of on-call duty as not being working time, even when the worker has to be available in the workplace;
- Extending the reference period for counting the average maximum working week of 48 hours from four to 12 months, without any safeguard provisions.

The ETUC has defined these proposals as totally unacceptable and has questioned their legal validity, stating that they represent several steps backwards, undermining workers’ protection and weakening trade unions’ ability to bargain on their members’ behalf. If adopted, they would turn the Working Time Directive into a façade without any real content. It has been calling on the European Parliament and Council to agree on fundamental changes in keeping with the true objectives of the Directive: to safeguard the health and safety of workers, promote social dialogue, and improve work organisation.

The European Parliament in May 2005 adopted its first report – being much closer to ETUC’s demands - by MEP Alejandro Cercas with a big majority. The European Commission responded with some slight changes to its initial proposal, which was then presented to the Council in June. Even with all the flexibility offered by the Commission, the Member States were still unable to find a political agreement on the topic, one of the most contentious issues being the continuation or abolition of the individual opt-out. Therefore any progress on this matter is blocked until today.

### ***The UK and the individual opt-out***

The UK government negotiated an opt out clause in the 1993 Directive enabling employers to hire people on contracts of over 48 hours a week if workers sign individual opt out agreements, on the condition that they do not suffer any penalty if they refuse to sign an opt out agreement. The Directive also stated that employers should keep records of staff that work more than 48 hours a week, and make them available to the appropriate authorities. However, in practice research carried out by the TUC has shown that two-thirds of British workers are unaware of the 48-hour limit in the Directive. Two-thirds of those working long-hours have not signed an opt-out or are not aware that they have done so, and one-third of those who have signed an opt out stated that they were given no choice.

The TUC has argued that long working hours has been associated with reduced levels of productivity and poor management. Not only does the UK have some of the longest working hours in Europe, they are only tenth in the EU-15 in terms of productivity per hour. Long hours are also seen to be major barriers to equality and the reconciling of work and family life, as well as to life long learning and access to education and training for workers.

Long hours are associated with work related fatigue and have been shown to impact on an increased risk of industrial accidents due to loss of concentration and tiredness. Research has shown that those workers who work long hours (over 48 hours’ work a week) are at a higher risk of heart disease, stress, mental ill health, diabetes and a range of other illnesses. Long hours also mean that people have less time for health promoting activities in their non-working hours (Spurgeon 2003, TUC 2005).

*“Trade unions have a significant role to play in the workplace, but the opt out of the working time directive means long working hours, which in turn harm patient care. In Liverpool trade unions have negotiated with employers a working time policy that has banished the opt out. Since then the employers in the NHS have agreed with unions that they will not introduce the opt-out in the NHS.”* **Mike Travis, Royal College of Nurses**

In particular, working time legislation has been linked to unfair competition, between companies and countries, in working hours. There are concerns that pressure from western companies to extend flexibility in the Central and Eastern European countries could undermine working time standards. A European framework for limiting working hours and a strong Working Time Directive has become an imperative for the new member states of the EU to ensure that unfair competition in working hours does not lead to deterioration in working conditions in their countries. This is a particularly important issue for those countries in the CEE who do not have either the framework or scope for negotiating working time through collective bargaining.

### **Case Study 13: EMERGING SOCIAL PARTNERSHIP APPROACH IN THE REGULATION OF WORKING TIME IN ROMANIA<sup>35</sup>**

In 2003 a new Labour Code was established in Romania. The reason for changing the Code was to implement European social rights, including working time principles, into labour legislation. The Romanian government was under a lot of pressure from Western European companies to allow for almost unlimited flexibility in the new working time regulation. Romanian trade unions had to mobilise and organise to counter this pressure and secure a proper new regulatory framework on working time.

For the first time in Romania, the Labour Code has regulated working time based on ILO standards and the EU legal framework. Prior to 1989 there had been little regard given to the rights of working people, including work life balance.

Title III of the Labour Code now provides for working time, rest time and annual leave entitlements through the implementation of the Working Time Directive. Standard working time is set at 40 hours per week and maximum working hours are 48 hours. Employers can establish flexible working hours 'with the consent or at the request of the employee in question', including flexible start and finishing times.

This is the first time that working time regulation has taken account of the positions of the Romanian social partners and this is a breakthrough for the unions.

According to **Fernando Pereira<sup>36</sup>** the objective of the EU Treaty and the Working Time Directives, is to set out rights and limits to working time. The key factor is to protect the health and safety of working people. This is particularly important as the social effects of health and safety are often poorly understood. One of the reasons that the European Commission was compelled to introduce a revised Directive is that the European Court of Justice judgements concerning on-call working had had the effect of forcing the 'opt out' provisions of the Directive, since the costs of implementing the provisions concerning on call working time would be very costly to employers. The Commission's texts since 2003 have been geared to finding a balance between wanting to give more flexibility to firms to manage flexible working time, whilst also recognising the important role needed in protecting workers against increased working hours.

*"The Commission wanted a revision that wasn't just about increased flexibility but also to give better protection of workers. We have to take account of both aspects in the directive".*

**Fernando Pereira, European Commission**

**John Monks<sup>37</sup>** stated that working time was a core trade union demand and that apparently the British Prime Minister, Tony Blair, has seen working time as a top priority compared to other leaders in Europe, whilst campaigning against the deletion of the individual opt-out and arguing that social policy is not a European competence, rather that EU competence should be focussed on the internal market and free trade. The ETUC has argued that the Commission's proposals are misfounded in a number of areas. This includes the mistaken association between flexibility and long working hours and that evidence of the abuses of the opt-out are not being taken into account. Similarly, the ETUC argues that although the Commission highlights the importance of the social dialogue in all activities, it is proposing to remove the precondition of collective bargaining for extending reference periods.

<sup>35</sup> Case presented by Ovidiu Jurca, Romania

<sup>36</sup> DG Employment, European Commission

<sup>37</sup> General Secretary, ETUC, Brussels



The ETUC also argues that the Commission's proposals do not support the Lisbon agenda and particularly the objective of raising the employment rate of women and older workers.

*“The ETUC is calling on European leaders to listen to the wishes of the EU’s democratically elected Parliament, and of working people, expressed through the European trade union movement, and to agree on a revised Directive that protects the health, safety, and family life of workers in Europe.*

*The ETUC considers the next stage in this process to be crucial, to prevent that the Working Time Directive, which is an essential part of the social architecture of Europe, will be watered down for purely ideological or economic reasons, against the interests of health and safety and work-life balance of male and female workers everywhere in the EU-25”.*

**(ETUC’s Position in the Second Phase of Consultation of the Social Partners at Community level on the Revision of Directive 93/104/EC concerning certain aspects of the organization of working time (Working Time Directive)).**

Working time and minimum rights at work have become more important in the context of increasing migration in Europe and free movement of labour. The key issue is that there is one labour market in areas such as health, construction, catering, and agriculture. A recent case in point is of a Latvian company who took up a building contract in Stockholm but refused to observe Swedish labour standards agreed through collective agreements. The company is taking a case against the Swedish trade unions in this regard. A similar case of action was taken by the Finnish seafarers union and the International Transport Federation, regarding the Viking line, that wanted to reflag a Finnish ferry to Estonia, to reduce working conditions and pay for the personnel. A high court injunction by a London Court was taken against ITF to prohibit them to call for strikes and solidarity action, meaning that free market rules are used to override national terms and conditions of employment.

Both cases are now before the European Court of Justice, and the ETUC is very concerned about the possible outcome.

*“In practice we can’t rely on 25 jurisdictions and think you can run one European labour market with free movement of labour, not recognizing the European Social Model and the need for minimum rules of the game that provide for a bottom in the competition undermines people’s support for free movement of labour. This is a dagger at the heart of everything that Europe is representing. This means that there is a need for much greater clarity about which jurisdictions apply and what conditions of employment workers are working under. These principles need to be clearly established, and employers need to have a clear set of obligations.”*

*“If Europe is just a business market and if globalisation in our part of the world is without any standards being enforced... then what’s in it for workers? Social Europe is a key issue for migrant workers. This includes the principle of equality, equal pay for women and men, anti-discrimination and anti-racism. We want a dynamic economic market with good welfare states in the public and non-profit sectors based on what people need. Trade unions are part of the economy and strong trade unions mean justice and fairness and it is our role to defend and promote the social model.”*

**John Monks, General Secretary, ETUC**

### **Summary of ETUC’s position on the revision of the Working Time Directive**

The ETUC’s position, along with the majority of the European Parliament, is:

- a) the individual opt out should be ‘phased out’ (that is: deleted within a few years time), because it is incompatible with the principles and objectives of the Working Time Directive;
- b) on call working time, if the worker has to be present in the workplace, has to be defined as working time, and that balanced and proportional solutions for ‘on-call work’ have to be developed, preferably on the basis of collective bargaining, that are consistent with the judgements of the European Court of Justice;
- c) genuine measures have to be taken to allow workers to reconcile work and family life and to protect the health and safety of working parents and carers; especially individual workers should be granted the right to request changes to their working time pattern;
- d) longer reference periods for the calculation of the average 48-hour working week are only acceptable if negotiated on the basis of collective bargaining, or when there are additional legal safeguards put in place that guarantee proper consultation of workers and/or their representatives and adequate protection of their health and safety.

**Alejandro Cercas MEP**<sup>38</sup> stated that ETUC lobbying had been very important to the position taken by the European Parliament. The European Parliament's position was that the opt-out should end and that 'on call' should be considered as working time.

*"We want a transparent discourse on the social agenda in the European Parliament. We are trying to defend the 48-hour working week. The opt-out is an absence of standards. The key issue is that we want minimum social standards and an end the opt-out."* **Alejandro Cercas, MEP.**

However, many member states do not fully understand the implications of the proposed revisions. This raises important questions about what the role of Europe is. There is a key role to be played in covering social rights and in ensuring that there is a social Europe with minimum standards. Workers' rights are important to be able to work in dignity and in conditions with decent working hours. A key issue in the European context is that social dumping means that minimum social standards are a more important principle. In this respect the Lisbon agenda is not compatible with the proposed revisions to the Directive and a "catastrophic outcome may not be avoided". Talking about the positions Member States are currently taking in the Council of Ministers, Cercas said: "The more they preach flexibility at home, the less they are flexible in Brussels."

The impact of the proposed revisions to the Working Time Directive was described by **Jean Lambert MEP**<sup>39</sup> as "totemic". The UK government has been actively lobbying other member states regarding the adoption of the opt-out and to use the opt-out in sectors such as doctors in training. There needs to be a strong argument about the link between the need to limit working hours, health and safety and low pay. In April 2005, following the Commission's most recent proposal, the European Parliament's Committee on Employment and Social Affairs adopted a common report on the working time proposals. The Committee position differed to the Commission proposal and included the following: removal of the "opt-out" within 36 months of entry into force; support for the European Court of Justice classification of on-call time as working time; an extended reference period only where there are conditions to secure health and safety; an emphasis on dialogue in working time negotiations; and the introduction of special consideration to balancing work and family life and in encouraging lifelong learning.

*"The issue about who owns your time, who controls it, who says where you have to be at what point, is a key question when deciding whether or not you are actually at work."* **Jean Lambert, MEP**

The problem is one of long hours. Recent Eurostat evidence shows that the UK and Latvia have the longest working hours. Long working hours create stress and ill health. A recent report launched by Jean Lambert argues that it is key that the Directive is seen as a health and safety issue, rather than solely a work-life balance issue. This is particularly the case since one in three of all workers do not know that they have a legal right to a maximum of 48 hours, and others do not know that they have signed an individual opt out. This could lead to further mistrust of the European Union, which is being viewed as drawing back from important principles established on the social dimension.

### 7.3 Bringing working time to the centre stage

**Catelene Passchier**<sup>40</sup> stated that the issue was not just about working time, but also about strengthening trade unions, attracting new members and winning battles. A lot of work is still ahead of us, and she called on all participants to be available for a network of contact persons from each member country, as one way to get a quick response to campaigning for the Working Time Directive. This is a core trade union issue and it is important to stand firm. In the future, having protection of labour standards and rights concerning working time in collective agreements will not be sufficient. Setting out basic principles in legislation is particularly important for those member states, especially the new ones that do not have strong collective bargaining systems.

<sup>38</sup> Spanish MEP, Socialist Group in the EP (PES), rapporteur on the revision of the Working Time Directive

<sup>39</sup> Green Party, European Parliament

<sup>40</sup> Confederal Secretary, ETUC, Brussels

The conference discussed many good practice examples, but similarly, there is also a need to highlight bad practice. For example, the Greek government recently introduced legislation interfering with collectively agreed overtime compensation, cutting overtime payments with flexibility for employers with over 21 employees. A key issue for the future will be to keep a maximum working time limit across Europe, in order to avoid social dumping and undue pressure on workers to accept long hours because otherwise companies go elsewhere, and also to provide a legal framework for collective bargaining.

We clearly also need to further discuss developments around 'time'. Increasingly, working time is invading private life (with irregular schedules of working time, and for instance when working from home as in telework situations). But also, 'free time' is no longer so clearly defined - see the developments around 'inactive time in the workplace'. On a more positive note, the Italian 'Time in the Cities' approach was a very interesting one, showing that trade unions together with employers and local authorities could develop a holistic approach to working time and private time.

Key questions were raised about how to increase and make visible trade union actions and services for members. Exchanging good practices and using the ETUC web site to share experiences is a starting point. There is also a need to showcase unions as moderates and intermediaries who can work in partnership with successful partnership agreements and involvement. This is important to the modern trade union role and can be used as an effective organising tool, particularly in recruiting younger workers and women.

*“Working time is at centre stage and increasingly it is an issue for unions to mobilise around. We need to show that trade unions are agents of change; this needs to be better understood out there. We also need enlightened entrepreneurs who are working in partnership with employees and unions in the context of building a social Europe.”*

**Catelene Passchier, Confederal Secretary, ETUC**

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*“Partnership working around working time can galvanise members and improve the image and profile of unions. In some cases this helps unions to increase their membership by involving people who would not normally see themselves as trade union activists, whilst also bringing new skills and perspectives to unions”.*

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