

Working time continues to be at the centre of the debate in Europe, for several reasons. On the one hand, employers, often with the support of governments, continue to call for more working time flexibility, and increasingly also for working time extensions without compensation. This has caused strained relations with the trade unions which reject working time extensions and question the need for further working time flexibility. On the other hand, at the European level revision of the Working Time Directive has been under discussion for more than two years; a dossier of deep concern and highly contested by the trade unions.

This chapter will briefly summarise the debate on working time flexibility and weekly working hours in Europe. It will then look at the number of hours that are being worked around Europe and the changes that have taken place in this respect in recent years. It will also discuss the spread of part-time work. Furthermore, this chapter will discuss developments in the process of revising the Working Time Directive. In relation to the opt-out, figures will be supplied on working time preferences of women and men in the EU 15 and a comparative overview is provided of the calculation of the national maximum statutory limit on working time.

Themes

- 5.1. Working time developments
- 5.2. Revision of the EU working time directive
- 5.3. Conclusions

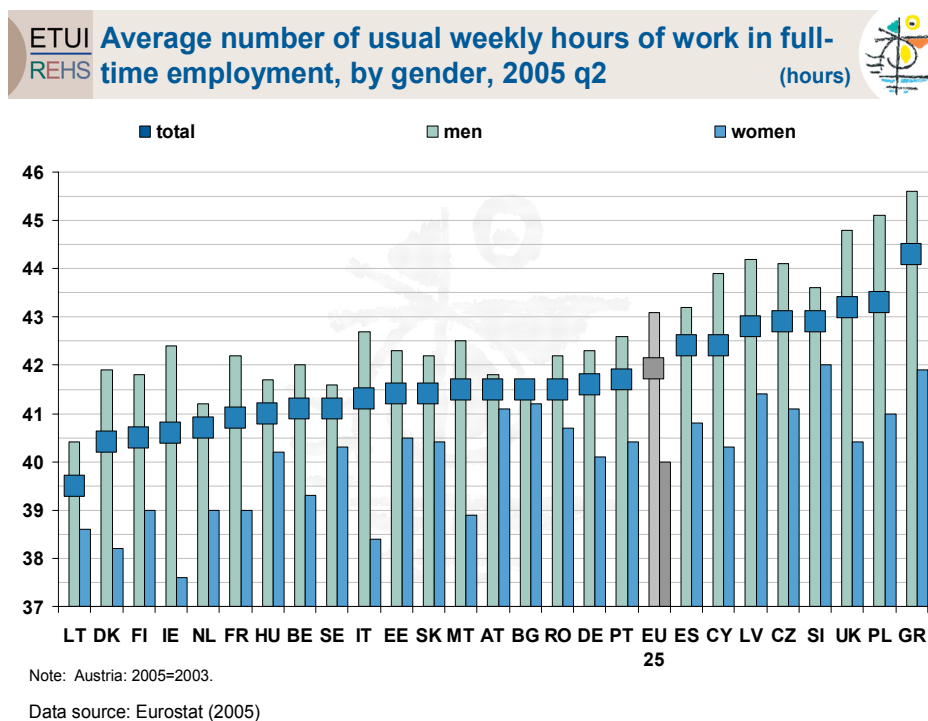
Trade unions have for many years had the reduction of working time as a major objective, aimed at improving the lives of workers and creating employment for the unemployed. Working time reduction was a major demand presented to employers in collective bargaining and also to governments, and with some success, as will be discussed below. Through collective agreements and legislation weekly working time in most European countries was declining until recently. Often working time reduction was exchanged for one of the major objectives of employers, for example, the flexibilization of working time arrangements, allowing employers to effectively utilise labour when it is most needed. However, in the last couple of years, we have witnessed a major change in the position of employers, as well as of many governments (Keune and Galgóczi 2006). They have started to reject further working time reductions and are rather pushing for working time extensions without compensation, while continuing their quest for increased working time flexibility. They argue that this is necessary because of international competitive pressure and often threaten to relocate their operations if their demands are not satisfied. In the EU 15 especially, there are more and more cases of concession bargaining in which workers are forced to accept working time extensions because of relocation threats. Such working time extensions amount to nothing less than a reduction of hourly wages, while they are also likely to have negative employment effects. In addition, in several countries, there are attempts to change working time legislation to allow working time extensions. In the meantime, trade unions retain working time reductions as a major objective and try to resist working time extensions, with more success in some countries than in others (Keune and Galgóczi 2006). Working time reduction was on the agenda until very recently in the CEE new member states (NMS), which was reflected in changes in either legislation or national or sectoral level agreements, aimed at achieving such reductions. However, 2005 marked a paradigm shift here as well, and today further working time reductions are practically off the agenda. Still, previous efforts to reduce working time resulted in some convergence in actual working time with the EU 15.

In the meantime, working time flexibility has been increasing around Europe, both through legislative changes and collective agreements. This includes regulations on the flexible scheduling of working time with prolonged reference periods, overtime and its compensation, weekend work, reduced working time in case of recession, and so on. Collective agreements have in many cases become an instrument of working time flexibilisation. Such flexibility is largely to the benefit of the employers. However, unions are also increasingly trying to negotiate ‘worker-friendly’ working time regulations, in particular to allow for a better combination of work and non-work activities. Particularly in the new member states, working conditions, including working time arrangements, are much more legislation-driven than set by collective bargaining. Labour legislation is functioning as a substitute for strong autonomous industrial relations systems and bargaining practices. Moreover, collective bargaining in the new member states is primarily wage focused and working time has a secondary role. Hence, the NMS and their trade unions are much more sensitive to legislative changes and the impact of EU directives is also stronger than in the EU 15.

5.1. WORKING TIME DEVELOPMENTS

WEEKLY WORKING HOURS

Figure 1

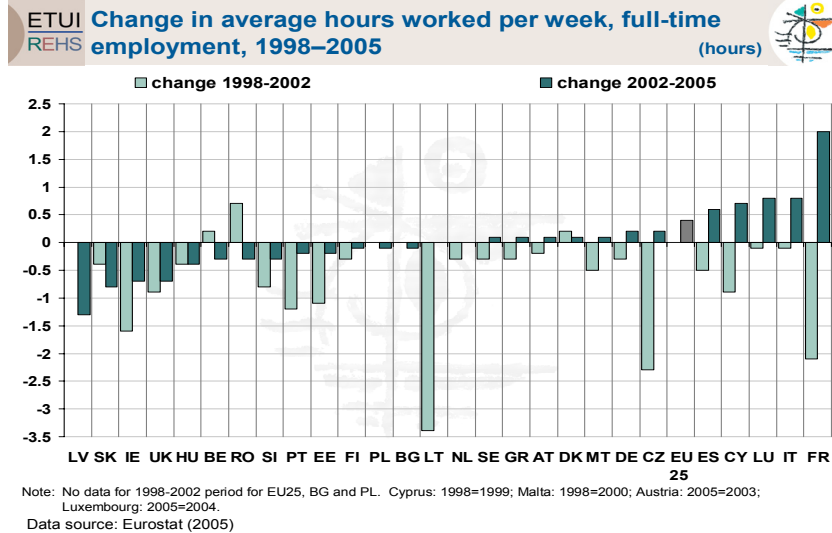


Major differences in weekly working time prevail across Europe. Average weekly working hours for full-time employment in 2005 for the EU-25 amounted to 41.9 hours (Figure 1). Working time was below 41 hours in 6 countries (Lithuania, Denmark, Finland, the Netherlands, Ireland and France), while it was over 43 hours in three countries (the UK, Poland and Greece). In Greece, usual weekly working hours even surpass 44 hours, probably because of the very high percentage of self-employed (over 40% of the employed). As can be seen in Figure 1, of the 8 countries with working hours above the average, 5 are new member states. However, the other 5 new member states, as well as candidates Romania and Bulgaria, are clearly below the average. Hence, the popular perception that in the new member states long working hours are used as a competitive strategy is not entirely correct. Indeed, working hours in Germany, for example, are longer than those in five new members and the two candidates. The perception of longer working hours in the NMS is partially due to the fact that comparisons are often made based on aggregate working hours. Because of a low incidence of part-time employment and a greater proportion of employees with a second job, working time in the NMS may seem longer. Figure 1 also shows clearly that men in full-time employment work longer than women in full-time employment. On average the difference is almost two hours per week, but up to 4 hours or more in Ireland, Poland, the UK and Italy.

5.1. WORKING TIME DEVELOPMENTS

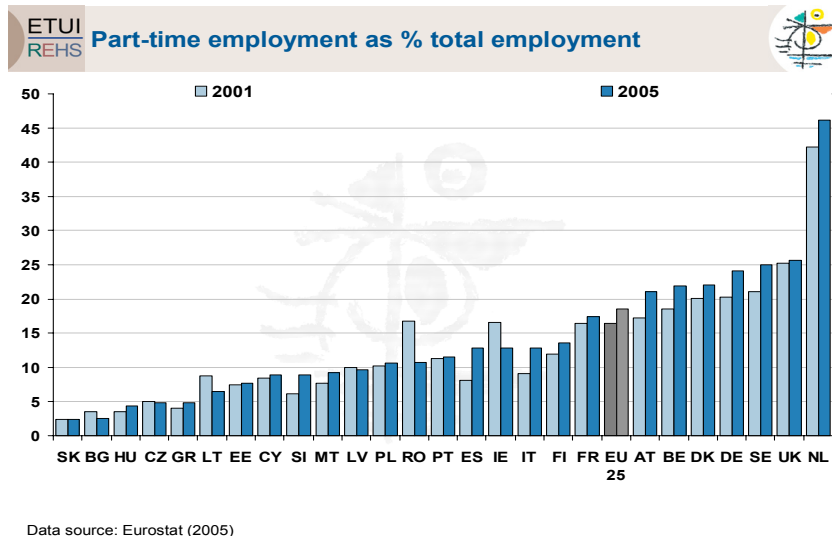
WEEKLY WORKING HOURS

Figure 2



If we then consider the changes in usual hours worked per week over time, we see that there is indeed a shift from working time reduction towards working time extension (Figure 2). In the period 1998–2002, in virtually all European countries, working time decreased, in six of them by more than 1 hour a week. The most noticeable reductions – that is, over 2 hours per week – were achieved in Lithuania, the Czech Republic and France, the latter by means of its 35-hours working week policy. In only three countries was working time extended in this period, and these extensions were minor. However, between 2002 and 2005, working time was extended in 12 countries and also the average for the EU 25 went up. Interestingly, these extensions are not related to the business cycle since economic growth was much more robust in the first than in the second period. Most noticeably, with the abandonment of the 35-hour policy, working time in France went up by 2 hours per week, undoing almost entirely the working time reduction achieved in the period 1998–2002. In 13 out of 27 countries working time was still reduced, but in most cases these reductions were negligible and only in one case exceeded 1 hour per week. Hence, a clear trend towards working time extension can be observed and it is likely that this trend will continue in 2006.

Figure 3



Also important for the debate on working time is the proportion of part-time employment in total employment. In 2005, in the EU 25, 18.5 per cent of the employed were in part-time employment, up from 16.4 per cent in 2001 (Figure 3). Indeed, in almost all European countries part-time employment is on the rise. Between 2001 and 2005, the percentage of part-time employed decreased in only 6 countries and with the exception of Ireland these are all NMS or candidate countries. Part-time employment is most important by far in the Netherlands, at 46.2 per cent, followed by the UK, Sweden and Germany, at around 25 per cent. A clear divide exists between old and new member states since all new members have lower part-time employment rates than all old members, with the sole exception of Greece. Part-time employment is so low in the NMS first of all because of low wages, which make it financially unattractive.

5.2. REVISION OF THE EU WORKING TIME DIRECTIVE

DEREGULATION

Figure 4



ETUI REHS Comparison of the different proposals for revision of the working time Directive

PROPOSAL EUROPEAN COMMISSION SEP 2005	POSITION EUROPEAN PARLIAMENT APRIL 2005	POSITION EUROPEAN COMMISSION MAY 2005
<p>Definitions of on-call time and inactive part of on-call time: Active part is working time</p>	<p>On-call time is working time; Inactive parts may be calculated in a specific manner to comply with the max. 48 hrs/week; Limit of max. working time per worker</p>	<p>Only active part is working time; Inactive part may be calculated on the basis of an average number of hrs or a proportion of on-call time taking into account experience in the sector; Inactive part may not be taken into account in calculating daily and weekly rest</p>
<p>Reference periods: 4 months – may be extended to 12 months after <u>consultation</u> with the interested social partners</p>	<p>12 months possible by: – collective agreement, if workers are covered – law or regulation, if workers are not covered, ensuring: • employer informs + consults workers and/or rep. • employer takes measures to prevent health + safety risks</p>	<p>MS free to allow 12 months: – by collective agreement, or – by law or regulations, if • information and consultation of workers and/or rep. • protection of health + safety</p>
<p>Opt-out: In principle through collective agreement, but possible individually if no collective agreement in force + if there is no worker rep. empowered to conclude an agreement</p>	<p>Phasing out after 36 months</p>	<p>Phasing out after 3 years; MS may by collective agreement or by national law decide not to apply the max. limit of 48 hrs; MS which have used this option before may ask the COM for extension; If worker previously on individual opt-out, might remain valid for 1 more year</p>
<p>Reconciliation of work and family life: Only mentioned in intend 5 of the general considerations</p>	<p>MS should encourage employers to take this theme into consideration; MS shall ensure that – employers inform workers in case of changes to working time – workers are able to request changes to their patterns of work + employers should consider them fairly – they may refuse only if organisational disadvantages are disproportionate</p>	<p>MS should encourage social partners to conclude agreements on the theme; MS shall ensure that: – employers inform workers of changes – workers may request changes + employers obliged to examine them – taking into account employers' and workers' needs for flexibility</p>

Source: European Commission (2004c), Cercas (2005), European Commission (2005a)

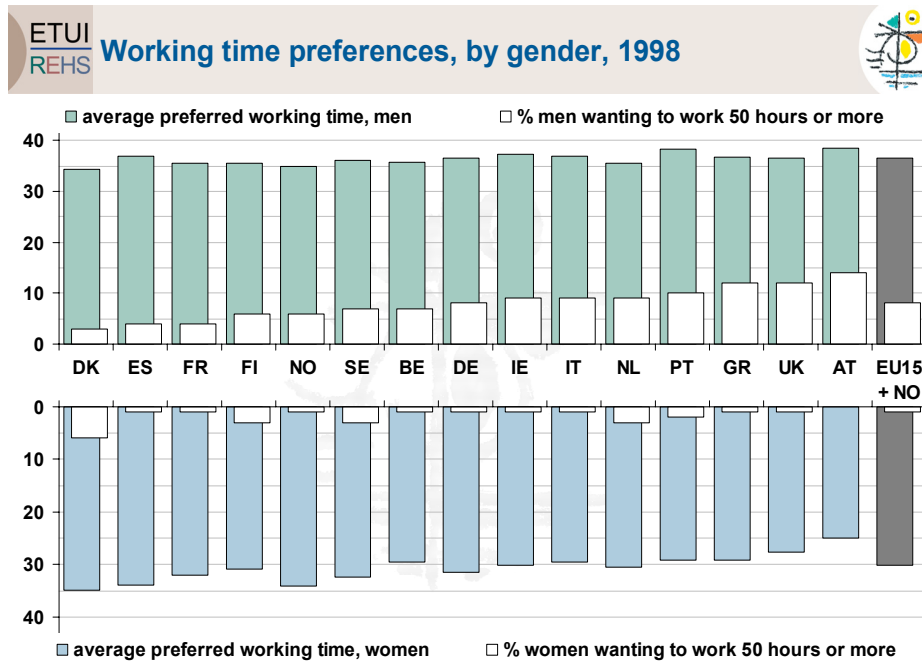
The process of revising the Working Time Directive started in 2004 with a first proposal of the European Commission after consultations with the broad public and the European social partners (see Benchmarking 2005). In May 2005 the European Parliament voted on the topic, proposing fundamental changes to the Commission's proposal which were much closer to ETUC demands. The EP explicitly included in the text the issue of reconciliation of work and family life, stated clearly that on-call time is working time and asked for an end to the opt-out within a time frame of 36 months. The Commission therefore had to present a new proposal in May, but took over only a few EP proposals on the reference period and the reconciliation of work and family life, as shown in Figure 4. The topics 'on-call time' and 'opt-out' (working week longer than the maximum 48 hours on an individual basis) remain very worrying. The Commission defines 'on-call time' as a period during which workers have to be available at the workplace to carry out their activity or duties, should the employers require it; the 'inactive part of on-call time' refers to on-call time during which the worker is not required to actually work. The Commission still proposes that the inactive parts of on-call time not be considered as working time, while the European Court of Justice (ECJ) in December 2005 again stressed the contrary (ECJ Case C-14/04). On the opt-out, the Commission took over the EP's proposal to phase it out, suggesting a period of 3 years. However, it is up to member states to choose whether they want to accept a maximum ceiling of 48 hours or not.

National discrepancies regarding working time are so great that the issue has been blocked in the Council since summer. The major problem still remaining is the 'opt-out': some countries support the idea of keeping the opt-out (for example, the UK and Germany), while others are totally opposed (such as France, Sweden, Belgium and Hungary). The British presidency made one last attempt to find a compromise in November/December in the hope of settling the matter before the Austrians took over the EU presidency. This failed because a majority of countries rejected the compromise, on different grounds.

5.2. REVISION OF THE EU WORKING TIME DIRECTIVE

WORKING TIME PREFERENCES

Figure 5



Source: European Foundation (1998)

The major argument for keeping the opt-out – repeatedly used by the UK – is respect for workers’ freedom to decide on the length of their working time. Examination of the figures renders it doubtful that representatives of those countries fighting to keep the opt-out have ever looked at the working time preferences of men and women employed in the EU.

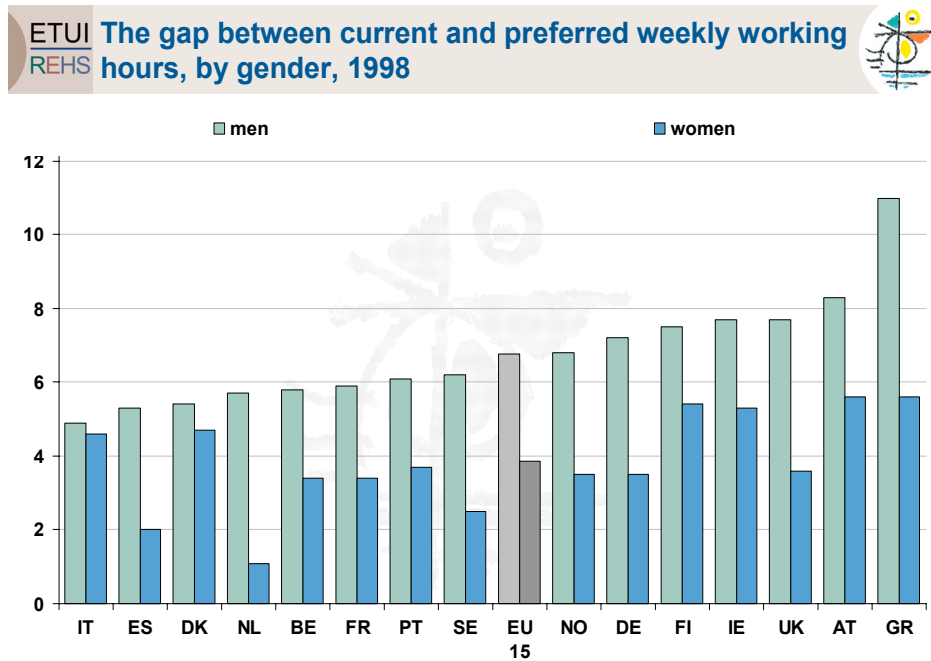
Unfortunately, no more recent data are available, nor any data on the EU 10. This is already a major indication that the working time preferences of the workers are not only not a priority in politicians’ reflections, but also not particularly important for statistical questionnaires or research on working time. This deficit should urgently be dealt with.

Figure 5 presents the gap between current and preferred weekly working hours by gender. On average, men would prefer to work 6.76 hours less than they currently do, and women 3.86 hours less. The gap between current and preferred working time is much higher for men than for women, as their working time is already lower (Figure 1). The gap varies considerably among countries, with 11.0 points in Greece, 4.9 in Italy (men), and 5.6 in Greece and Austria, as against 1.1 in the Netherlands (women). It is clear that in all countries women and men would prefer to have a shorter working week. Therefore, those who rely on the argument that workers must have freedom to choose their length of working time should also give them the opportunity to work shorter hours than is currently the case.

5.2. REVISION OF THE EU WORKING TIME DIRECTIVE

WORKING TIME PREFERENCES

Figure 6



Source: European Foundation (1998)

Figure 6 provides data on the preferred hours of employed and job-seeking women and men in the EU 15 + Norway. The figures show clearly that the majority of employed persons in the EU do not desire to work long hours. The average preferred working hours of women in the EU 15 + Norway is 30.1 hours per week, while the average for men is 36.5 hours per week. The EU level sets the maximum limit of working time in the Directive at 48 hours per week, including overtime, though even this maximum is under scrutiny in the discussion of the revision of the Working Time Directive. Figure 6 provides data on men and women wanting to work 50 hours or more, therefore more than the European maximum. In only four countries 10% or more of men would prefer to work longer than 50 hours. With the exception of Greece, the percentage of women wanting to work longer than 50 hours a week is minimal (around 1%). Obviously, given the average preferred working hours and the unusualness of people wanting to work longer than 50 hours a week, the argument that the opt-out (individual agreement to work longer than 48 hours) needs to be kept to give workers the freedom to work longer is untenable. Together with Figure 1, which shows that in none of the EU 25 countries is average working time in full-time employment longer than 46 hours per week, this provides evidence that workers in Europe do not, and nor do they wish to, work longer than the 48 hours limit set at European level.

5.2. REVISION OF THE EU WORKING TIME DIRECTIVE

MAXIMUM LIMIT ON WORKING TIME?

Figure 7

COUNTRY	MAXIMUM LIMIT PER WORKER/PER CONTRACT	WORKING TIME OVER THE MAX. LIMIT POSSIBLE?
AT	Explicit max. working time (WT) per worker; in the case of several employers the max. limit may not be disregarded	NO
BE	Max. limit 39 hrs/week per contract	YES
BG	Max. 40 hrs working with the same employer – max. 48 hrs working with two employers	NO
CZ	Max. 40 hrs per contract	YES
EE	Max. WT is 48 hrs incl. overtime per worker; workers can work several contracts if the primary employer agrees, but even so workers must not exceed 48 hrs per week	YES in practice not in theory
FR	Limit on working time per worker	NO
DE	Max. time limits per worker – Max. working day is 8 hrs	NO
IS	Average working time/week, overtime included, shall not exceed 48 hrs; max. WT per contract of employment	YES
IE	48 hrs limit per worker	In principle, NO
IT	Workers may have more than one employment contract but limits regarding daily and weekly rest must be respected	YES, but with reservations
LV	Max. WT is 49 hrs per week per contract (but several contracts are possible, even with the same employer)	YES
LT	Max. 48 hrs per contract, but for workers on several contracts daily working time is limited to 12 hrs per day (incl. rest)	YES, but with reservations
NL	Max. limit 46 hrs/week – people can have more contracts but the main employer will have to ensure that a worker does not, in total, work more than the maximum set by law	NO
NO	Max. 40 hrs – Supreme Court: all employment contracts, if with the same employer	YES, if with several employers
PL	Max. 40 hrs per contract	YES
PT	Max. 40 hrs per contract	YES
RO	Max. 48 hrs – interpreted per contract	YES
SK	Max. 48 hrs – with same or several employers is possible	YES
SI	Max. 40 hrs per worker	NO
ES	Law unclear, but interpreted as being per contract (40 hrs)	YES
SE	Max. working week 40 hrs per contract Nothing in law prohibits having several contracts	YES, if with several employers
UK	Max. 48 hrs in law per worker; duty on the employer to take 'all reasonable steps' to ensure that workers who are covered by the regulation do not work more than 48 hrs per week on average	YES in practice

Source: Questionnaire to ETUC affiliates (2005), author

The EP proposed to include an explicit regulation in the Working Time Directive, laying down that the maximum working time limit of 48 hours be applied per worker and not per employment contract to avoid breaches of the 48-hour limit with the use of several contracts. Following this proposal governments started to use this argument in the discussion of the revision and, as the last Council meeting showed, countries are also divided on this point. This is not really surprising, as Figure 7 shows. In 14 countries out of 22 it is possible to circumvent the national maximum working time limit, as either under law or at least in practice, workers can work under a number of contracts and their working time is calculated on that basis. This possibility is available in all 9 NMS and candidate countries listed, with the exception of Slovakia and Bulgaria. This outcome might be less surprising than the one on the EU 15, as many workers in Central and Eastern Europe work under several contracts simply to ensure sufficient family income. Out of the 12 old member states listed only four clearly assert the principle that the working time limit applies per worker, but this is partly due to the fact that in practice the maximum working time limit is generally respected and the issue tends not to arise. It is evident that maximum working time must be calculated per worker and not per contract. If not, all safeguards, and not only with respect to the workers' health, could be circumvented.

Decent working hours should be part and parcel of a Social Europe that considers workers to be more than factors of production, provides good health and safety conditions and allows workers to balance their working lives with a rich non-working life. However, decent working hours are under threat. A paradigm change can be observed in working time arrangements throughout Europe in line with the growing pressures of globalisation and a shift in the balance of power between employers and employees. Working time extension has become common practice in a growing number of EU countries, while the previous trend of working time reduction is coming to a halt. As NMS labour conditions are more legislation driven than in the EU 15, with a strong legislative anchor substituting strong autonomous bargaining, these countries are more sensitive also to legislative changes at the European level. This also has to be taken into consideration as the EU 25 tries to find a compromise on the revision of the Working Time Directive. An agreement might be reached under the Austrian Council Presidency in the first half of 2006.

Therefore the trade unions' struggle to overturn a proposal which violates the right to limited working hours is still not over. All this is taking place at a time when the European Commission is proudly presenting its ideas on 'better regulation'. One can only hope that the proposal to deregulate the Working Time Directive does not come to be considered the new way forward. In this context it cannot be stressed often enough that the revision of the Working Time Directive as it stands at the moment will for the first time lower already achieved European legal standards. Furthermore, this development has to be seen against the background of ECJ decisions giving totally different signals to our lawmaking bodies and of course against the background of the preferences of those concerned – the workers.