

## **White Paper on sectors excluded from the Working Time Directive**

One oddity of the Community Directive on the organization of working time<sup>1</sup> is that most of the sectors where its restricted and qualified provisions could have brought some progress are excluded from it. These exclusions were heavily criticized by the European Parliament, which came down in favour of a directive covering the excluded sectors. The French lorry drivers' strike in November 1996 highlighted the connection between unregulated working hours and worsening working conditions in the transport industry. Between 1983 and 1993, French truckers' working hours rose from an average 60.8 to 62.5 hours<sup>2</sup>.

The Commission has finally published a White Paper on sectors and activities excluded from the Community directive<sup>3</sup>. It estimates total employment in the European Union in all the sectors and activities excluded from the Directive at about 5.6 million. Most of these (3,500,000) are in the road transport industry. The other excluded sectors are: rail transport (965,000 workers), air transport (375,000), inland waterway transport and shipping (205,000), sea fishing (270,000), the other work at sea (45,000) and doctors in training (270,000).

The Commission's approach is not particularly adventurous. It considers various policy options. It dismisses the employers' demand for a recommendation on the grounds that a non-binding measure would only maintain the status quo. Equally, it rejects a straightforward extension of the Directive's minimum provisions to all excluded workers, preferring what it calls a "differentiated approach".

Briefly, this would entail:

- a) maintaining a distinction for workers in sectors currently excluded. They would be covered only by some of the Directive's provisions, like the four weeks paid annual leave, health assessments for night workers, guaranteed adequate rest and a maximum number of hours to be worked annually. In plain terms, the proposal would deny workers in these sectors any definition of maximum weekly working hours.
- b) extending the full provisions of the Working Time Directive to all non-mobile workers in the transport industry (e.g., clerical staff in road transport firms);
- c) introducing specific legislation for each sector or activity concerning working time and rest periods. In plain terms, that means that even the restricted and qualified provisions of the directive would not apply as basic guarantees, and that the framing of specific rules (through sectoral collective bargaining wherever possible) would take place outside any compulsory minimum reference framework.
- d) The White Paper is adamant that the exclusion of the transport industry from the directive does not extend to transport activities carried out in other sectors. So, own account transport



(by oil industry workers, for example) is covered by the Directive. This affects between 3 and 3.5 million workers in the European Union. This clarification is not over-egging the pudding. The then Conservative government's initial draft legislation transposing the directive in the United Kingdom aimed to minimize the effects of the directive by lumping together the two possible transport industry exclusions: as a sector (including non mobile workers) and as an activity covering all workers - regardless of sector - engaged in transport activities.

No timetable has been set for the implementation of these proposals. The White Paper is open for remarks until 31 October 1997.

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<sup>1</sup> Directive 93/104/CEE; for more details on the directive see *TUTB Newsletter*, n° 6/1997.

<sup>2</sup> See *Syndicalisme-hebdo*, n° 2625.

<sup>3</sup> Dated 15 July 1997; reference: COM (97) 334 final.