



Brussels, 3 June 2008

## BACKGROUND<sup>1</sup>

### **EMPLOYMENT, SOCIAL POLICY, HEALTH AND CONSUMER AFFAIRS COUNCIL**

**Luxembourg, 9-10 June 2008**

*The Council's meeting will start at 10:00, on both days. Employment and social policy items will be dealt with on 9 June, chaired by Ms **Marjeta COTMAN**, minister of Labour, Family and Social Affairs. Health and consumer items will be addressed on 10 June, chaired by Mrs **Zofija Mazej KUKOVIČ**, Minister for Health.*

#### **Employment and social policy**

*The Council will endeavour to reach political agreement in public deliberation on two directives concerning respectively:*

- *the organisation of **working time**;*
- *working conditions for **temporary workers**;*

*It will also seek to reach political agreement on a decision on **guidelines for the employment policies of member states**.*

*The Council will agree on a general approach amending the **Annexes** to Regulation (EC) No 883/04 on the **Coordination of social security schemes** and on a partial general approach concerning a regulation on the **implementation** of its Title IV, Chapter III (Recovery of benefits provided but not due, recovery of provisional payments and contributions, offsetting and assistance with recovery) (public deliberation).*

*The Council will adopt conclusions on:*

- *the **posting of workers** in the framework of the **provision of services**;*
- ***anticipating and matching labour needs**, with special emphasis on **youth**;*
- *the implementation of the **Beijing Platform for Action**, with regard to **indicators in Girl Child and Women in political decision-making**, respectively;*
- *the elimination of **gender stereotypes** in society.*

*The Council will endorse an Employment Committee opinion on **youth employment**.*

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<sup>1</sup> **This note has been drawn up under the sole responsibility of the Press Office.**

## **Health and Consumer Affairs**

*The Council will adopt conclusions, in public debate, on:*

- *reducing the burden of **cancer**;*
- ***antimicrobial resistance**;*
- *a cooperation mechanism between the Council and the Commission for the implementation of the **EU Health Strategy**.*

*The Council will adopt conclusions on the **information to patients on medicinal products** and also hold a policy debate (public debate).*

*The Council will take note of a progress report on a regulation on **novel foods** (public deliberation).*

*The Presidency will hold press conferences on Monday, 9 June at 18h00 (to be confirmed) and on Tuesday, 10 June at 13h15.*

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*Public events may be followed by video streaming at:*

<http://www.consilium.europa.eu/videostreaming>

## Employment and social policy

### WORKING TIME DIRECTIVE (*public deliberation*)

The Council will seek to reach political agreement on a draft Directive aimed at amending Directive 2003/88/EC concerning certain aspects of the organisation of working time<sup>2</sup> (12683/04).

Directive 2003/88/CE establishes minimum requirements concerning the organisation of working time, inter alia in respect of daily and weekly rest periods, breaks, maximum weekly working time, annual leave and certain aspects of night work, shift work and patterns of work

The draft amending Directive currently under examination has a twofold objective:

- First, to prevent some of the consequences of the European Court of Justice's case law, in particular of the rulings in the SIMAP<sup>3</sup> and Jaeger<sup>4</sup> cases, which held that any on-call duty performed by a doctor, as long as he or she is required to be physically present in the hospital and even if he or she spends his or her time resting, must be regarded as working time. It is currently impossible for Member States to apply European case law strictly, without a huge impact on their medical structures and economies. To avoid those negative effects, the draft Directive would introduce a definition of "inactive part of on-call time".
- Secondly, to review some of the provisions of Directive 2003/88/EC concerning the possibility of not applying the maximum weekly working time (48 hours) if the worker agrees to work longer hours (the "**opt-out**" provision).

The key issues still to be resolved relate to the opt-out provision.

With a view to achieving agreement, the Slovenian Presidency tabled a set of proposals, built on previous Presidencies' compromise texts, and agrees to include this item in an overall package which also includes the **temporary workers**<sup>5</sup> file.

The Presidency text provides for the possibility of the opt-out clause, with some elements being taken into account to guarantee the protection of health and safety of workers, in particular:

- the opt-out clause will be seen as an exception, the working week of a maximum of 48 hours being the general rule in the EU;

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<sup>2</sup> Directive 2003/88/CE of the European Parliament and of the Council of 4 November 2003 (OJ L 299, 18.11.2003, p. 9).

<sup>3</sup> Judgment of the Court of 3 October 2000 in case C-303/98, Sindicato de Médicos de Asistencia Pública (SIMAP) v. Conselleria de Sanidad y Consumo de la Generalidad Valenciana, ECR 2000, p. I-07963.

<sup>4</sup> Judgment of the Court of 9 September 2003 in case C-151/02, reference for a preliminary ruling: Landesarbeitsgericht Schleswig-Holstein (Germany) in the proceedings pending before that court between Landeshauptstadt Kiel and Norbert Jaeger, ECR 2003, p. I-08389.

<sup>5</sup> See below.

- implementation of the opt-out must be laid down by collective agreement, agreement between the social partners or by national law;
- employers and employees must consider other flexibility provisions – such as the longer reference period when counting working time – before making use of the opt-out provision;
- it will not be possible for a Member State to make use of both the longer reference period and the opt-out clause;
- an employee who refuses to work more than the average working time must not suffer as a result;
- an agreement signed at the beginning of the working contract will be null and void;
- a weekly limit of working hours will be set for workers who agree to the opt-out;
- there must be follow-up by the national authorities;
- a specific evaluation must be conducted at European level of the provisions concerning the opt-out and the implementation of longer reference periods; taking into account this evaluation the Commission may, if appropriate, submit a proposal to revise the Directive.

Legal basis proposed: Article 137(2) of the Treaty – qualified majority required for a Council decision; codecision procedure with the European Parliament applicable.

The European Parliament delivered its first-reading opinion on 11 May 2005 (8725/05) and the Commission its amended proposal on 31 May 2005 (9554/05).

#### **TEMPORARY AGENCY WORKERS** (*public deliberation*)

The Council will seek to reach a political agreement on a draft Directive on working conditions for temporary workers (7430/02 & 15098/02).

Temporary work is seen as a key factor in meeting the requirements of the Lisbon Strategy, as it contributes to increasing both employment and competitiveness. There are considerable differences in the use, legal situation, status and working conditions of temporary agency work within the EU.

This draft Directive aims to establish, at European level, a common legal framework to regulate temporary agency work. It seeks to strike a balance between flexibility and job security. It completes a package of measures aimed at regulating working conditions for so-called "atypical" workers. It will, in its turn, be complemented by Directive 91/383/EEC of 25 June 1991<sup>6</sup>, supplementing the measures to encourage improvements in the safety and health at work.

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<sup>6</sup> OJ L 206, 29.7.1991, p. 19.

The Directive would apply to workers who have an employment relationship with a temporary agency and who would perform temporary work under the supervision and direction of a user undertaking. It aims to ensure the protection of temporary workers and to improve the quality of agency work by ensuring, in particular, that the principle of equal treatment – in relation to workers recruited by the user undertaking to occupy the same job – is applied. Temporary agencies would be recognised as employers.

The Council's debate will be based on a text resulting from the discussions of the preparatory bodies. The Presidency agrees to include this item in an overall package with the *working time*<sup>7</sup> file.

The main outstanding issues may be summarised as follows:

- **prohibitions and restrictions** on temporary agency work, in particular, their review or removal;
- the **principle of equal treatment**, possible exceptions to that principle and the maximum length of assignments to which such exceptions can apply;

Legal basis proposed: Article 137(2) of the Treaty; qualified majority required for a Council decision; codecision procedure with the European Parliament applicable.

The European Parliament delivered its opinion at first-reading on 21 November 2002<sup>8</sup>.

## **POSTING OF WORKERS**

The Council will adopt conclusions on a Commission recommendation on enhanced administrative cooperation in the context of the posting of workers in the framework of the provision of services (9935/08 + ADD1).

Through this initiative, the Commission recommends the Member States to enhance their administrative cooperation in order to facilitate the effective implementation and enforcement of the Community legislation in this field; more specifically, it recommends action in three areas:

- a) developing an **electronic information exchange system**;
- b) improving **access to information** on the terms and conditions of employment both for foreign service providers and for the posted workers; and
- c) promoting the **exchange of information** and of **best practices**.

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<sup>7</sup> See above.

<sup>8</sup> 14331/02.

## GUIDELINES FOR THE EMPLOYMENT POLICIES OF THE MEMBER STATES

The Council will seek to reach a political agreement on a decision on Guidelines for the employment Policies of the Member States (16714/07 + ADD4 REVI).

### SKILLS, JOBS AND YOUTH

- a) The Council will adopt **conclusions** on “anticipating and **matching market labour needs**, with special emphasis on **youth** - A Jobs and Skills initiative” (9359/08).

The March 2008 European Council Conclusions invited the Commission to present a comprehensive assessment of the future skills requirements in Europe up to 2020, taking account of the impacts of technological change and ageing populations and to propose steps to anticipate future needs.<sup>9</sup>

- b) The Council will endorse an Employment Committee opinion on **Youth employment** (9898/08).

### SOCIAL SECURITY SYSTEMS – IMPLEMENTING REGULATION (*public deliberation*)

Pending the European Parliament first reading opinion to be adopted early in July, the Council will reach a *partial* general approach on a draft regulation aimed at implementing Regulation (EC) No 883/2004<sup>10</sup> on the coordination of social security systems, covering **chapter III of title IV (financial provisions - recovery of benefits provided but not due, recovery of provisional payments and contributions, offsetting and assistance with recovery)** (5896/06).

Regulation (EC) No 883/2004 was the first step of a process aimed at modernising and simplifying EU rules on the coordination of the national social security systems. Such rules are intended to allow EU citizens to move freely within Europe, while maintaining their social rights and expectations (health, pensions, unemployment protection, etc.).

The process must be completed with the adoption of the implementing regulation<sup>11</sup>, which proposal is now under examination. The regulation will replace Regulation 574/72<sup>12</sup>, with provisions that would strength cooperation between national institutions and improve the methods of data exchange.

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<sup>9</sup> Doc. 7652/08, conclusion nr. 14.

<sup>10</sup> Regulation of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L 166, 30.4.2004, corrigendum OJ L 200, 7.6.2004.

<sup>11</sup> See Article 89 of Regulation (EC) No 883/2004.

<sup>12</sup> OJ L 74, 27.3.1972, as last amended by Regulation (EC) No 647/2005, OJ L 28, 30.1.1997.

In accordance with the approach already taken for the adoption of Regulation (EC) No 883/2004, it has been decided to aim for Council's agreement on a chapter-by-chapter basis<sup>13</sup>.

Legal basis proposed: Articles 42 and 308 of the Treaty – unanimity required for a Council decision; co-decision procedure with the European Parliament applicable.

#### **SOCIAL SECURITY – ANNEXES** (*public deliberation*)

Pending the European Parliament first reading opinion to be adopted early in July, the Council will reach a general approach on a regulation amending Regulation (EC) No 883/2004 on the coordination of the social security systems and determining the content of its Annexes (11519/07).

These Annexes are necessary so as the particularities of the various systems of the Member States might be taken into account.

Annex XI contains provisions regarding specific aspects of individual Member States' legislation.<sup>14</sup>

Legal basis proposed: Articles 42 and 308 of the Treaty – unanimity required for a Council decision; co-decision procedure with the European Parliament applicable.

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<sup>13</sup> - On 1 June 2006, the Council reached a partial general approach on Titles I and II of the proposal;  
- On 1 December 2006, the Council reached a partial general approach on **invalidity benefits and old-age and survivors' pensions**;  
- On 30 May 2007, the Council reached a partial general approach on **sickness, maternity and equivalent paternity benefits**;  
- On 5 December 2007 the Council reached a partial general approach on **unemployment and family benefits**.

<sup>14</sup> See Article 83 of the Regulation.

## BEIJING PLATFORM FOR ACTION

As part of the annual follow-up to the Beijing platform for action for the advancement of women<sup>15</sup>, the Council will adopt conclusions setting out indicators in respect of **Girl child** (9669/08+ADD1) and **Women in political decision-making** (9670/08 +ADD1), two of the twelve critical areas for action<sup>16</sup>.

Since 1999, successive Presidencies have each year chosen one of the 12 critical areas of concern of the Beijing Platform for Action and presented a number of indicators for that area<sup>17</sup>.

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<sup>15</sup> Adopted during the UN World Conference on Women in 1995 (*see* <http://www.un.org/womenwatch/daw/beijing/platform/plat1.htm>).

<sup>16</sup>

- Burden of poverty on women;
- Access to education and training;
- Access to health care and related services;
- Violence against women;
- The effects of armed or other kinds of conflict on women, including those living under foreign occupation;
- Inequality in economic structures and policies, in all forms of productive activities and in access to resources;
- Inequality in the sharing of power and decision-making at all levels
- Insufficient mechanisms at all levels to promote the advancement of women;
- Lack of respect for and inadequate promotion and protection of the human rights of women;
- Stereotyping of women and inequality in women's access to and participation in all communication systems, especially in the media;
- Gender inequalities in the management of natural resources and in the safeguarding of the environment;
- Persistent discrimination against and violation of the rights of the girl child.

<sup>17</sup>

- Women in power and decision-making (1999);
- Women in the economy (reconciliation of work and family life) (2000);
- Women in the economy (equal pay) (2001);
- Violence against women (2002);
- Women and men in economic decision-making (2003);
- Sexual harassment at the workplace (2004);
- Women and health and Institutional Mechanisms (2006) ;
- Education and training of women (2007).



## **ELIMINATION OF GENDER STEREOTYPES**

The Council will adopt **conclusions** on the elimination of gender stereotypes in society (9671/08).

The European Council of 23-24 March 2006 adopted a European Pact for Gender Equality, encouraging action at Member State and Union level, inter alia to combat gender stereotypes in the labour market, in particular those related to the sex-segregated labour market and education.

Gender-based prejudices and stereotypes help to perpetuate a gender-segregated educational system resulting in a gender-segregated labour market, as well as a gender pay gap and economic inequality between women and men. Persistent gender stereotypes cause human resources to be wasted and thus prevent the EU from achieving its full competitive potential; they therefore represent a serious obstacle to achieving the goals of the Lisbon Strategy for Growth and Jobs.

## **Health and Consumer Affairs**

### **REDUCING THE BURDEN OF CANCER** (*public debate*)

The Council will hold a public debate and adopt **conclusions** on reducing the burden of cancer (9636/08).

The importance of this issue is evidenced by the fact that statistically one in three Europeans will develop cancer during his/her lifetime.

### **ANTIMICROBIAL RESISTANCE** (*public debate*)

The Council will hold a public debate and adopt **conclusions** on reducing antimicrobial resistance (9637/08).

Antimicrobial resistance (AMR) is still a growing European and global health problem which increases morbidity and mortality due to communicable diseases and leads to a diminution in the quality of life and also to additional health and medicinal costs.

### **COOPERATION MECHANISM BETWEEN THE COUNCIL AND THE COMMISSION FOR THE IMPLEMENTATION OF THE EU HEALTH STRATEGY** (*public debate*)

The Council will hold a public debate and adopt **conclusions** on a cooperation mechanism between the Council and the Commission for the implementation of the EU health strategy (9639/08).

On the basis of the EU Health Strategy (Commission's White Paper "Together for Health: A Strategic Approach for the EU, 2008-2013"<sup>18</sup>), the Council will adopt conclusions on the strategic cooperation that will permit Commission, Member States and the Council to work together in EU matters that can influence health (e.g. ageing of population, health threats, etc.) that would have a real added value for Member States and ensure the implementation of the EU Health Strategy, including "health in all policies" approach.

### **INFORMATION TO PATIENTS ON MEDICINAL PRODUCTS** (*public debate*)

The Council will adopt **conclusions** on the information to patients on medicinal products, following a communication from the Commission concerning the report on current practice with regard to provision of information to patients on medicinal products (9437/08).

The Council will also hold a policy debate on the information to patients on medicinal products. The public debate will be framed by a Presidency's questionnaire (9608/08).

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<sup>18</sup> COM(2007) 630 final

## **NOVEL FOODS** (*public deliberation*)

The Council will take note of a **progress report** on a regulation on novel foods (5431/08).

The proposed regulation would replace the current Regulation (EC) No 258/97, on novel foods and novel food ingredients which has been in force since 15 May 1997.

## **Other business**

The Council will be briefed on the following issues:

### **(a) Social Services of General Interest**

- Progress report by the Chair of the Social Protection Committee

The Council will take note of an oral progress report by the chair of the Social Protection Committee, as part of the open consultation mentioned in the Commission communication: Implementing the Community Lisbon programme: social services of general interest in the EU (9038/06).

### **(b) Information on events organised during the Slovenian Presidency:**

- (i) Conference on Jobs for Youth – Prosperity for All (Brdo, 24–25 April 2008)
- (ii) Conference on "Intergenerational Solidarity for Cohesive and Sustainable Societies" (Brdo, 27–29 April 2008)
- (iii) Seventh European Meeting of People Experiencing Poverty (Brussels, 16-17 May 2008)
- (iv) Conference on "Convention on the Rights of Persons with Disabilities – From Words to Reality?" (Kranjska Gora, 22–23 May 2008)

### **(c) Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment**

- Information from the Presidency (14490/07)

### **(d) Proposal for a Community framework on the application of patients' rights in cross-border healthcare**

- Information from the Commission

### **(e) Conference "eHealth without frontiers" (5–7 May 2008, Portorož, Slovenia)**

- Information from the Presidency (9749/08)

- (f) **EU Strategy to support Member States in reducing alcohol related harm**
  - Information from the Commission and the Presidency (9752/08)
  
- (g) **Nutrition, Overweight and Obesity related health issues**
  - Information from the Commission and the Presidency (9756/08)
  
- (h) **Framework Convention on Tobacco Control**
  - Information from the Commission
  
- (i) **Organ donation and transplantation**
  - Information from the Commission
  
- (j) **Patient safety package**
  - Information from the Commission (9764/08)
  
- (k) **Health Security related matters**
  - Information from the Commission (9767/08)
  
- (l) **Mental health for Europe**
  - Information from the Commission (9770/08)
  
- (m) **Proposal for a Directive of the European Parliament and of the Council amending Directive 2001/82/EC and Directive 2001/83/EC as regards variations to the terms of marketing authorisations for medicinal products**
  - Information from the Presidency (7529/08)
  
- (n) **Networking Meeting of the Competent Authorities for Pricing and Reimbursement of Pharmaceuticals (28–29 April 2008, Brdo pri Kranju, Slovenia)**
  - Information from the Presidency
  
- (o) **Food Improvement Agents Package**
  - Information from the Presidency

Following the European Parliament Environment Committee second reading voted adopted on 6 May 2008, the Council will be provided with updated information on four draft regulations concerning:

- **common authorisation procedure;**
- **food additives;**
- **food enzymes;**
- **flavourings.**

The package of four draft regulations is designed to overhaul the Community's rules on food improvement agents<sup>19</sup>. The proposals aim at reviewing the current legislation in this area on food additives and flavourings. The area of food enzymes will be regulated for the first time. The fourth proposal in the package introduces a common authorisation procedure for food additives, flavourings and enzymes, in which scientific opinions from the European Food Safety Authority (EFSA) would play a central role.

Legal basis proposed for the four regulations: Article 95 of the Treaty – qualified majority required for a Council decision; co-decision procedure with the European Parliament applicable.

**(p) European dimension of problems caused by coeliac disease: Spanish government support plan for persons suffering from gluten intolerance. Amendments needed to European legislation**

- Information from the Spanish delegation (9772/08)

**(q) Supplementary pension rights**

- Information from the Presidency (13857/1/07 REVI + COR1)

The Council will be informed on a draft directive regarding the minimum requirements for enhancing working mobility by improving the acquisition and preservation of supplementary pension rights.

In a context where pension schemes established in the framework of an employment relationship (supplementary pension schemes) are becoming increasingly important for covering the risks of old age in the Member States, the draft Directive aims to facilitate the free movement of workers both between and within Member States by improving opportunities for those who change employers to acquire and preserve supplementary pension rights.

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<sup>19</sup> 12179/06, 12180/06, 12181/06 and 12182/06.