

**O TEMPO DE TRABALHO NA EUROPA**  
CONTEXTO E RESPOSTAS SINDICAIS  
**WORKING TIME IN EUROPE**  
CONTEXT AND TRADE UNION INTERVENTION



## INTERNATIONAL SEMINAR

# "WORKING TIME IN EUROPE - CONTEXT AND TRADE UNION INTERVENTION"

LISBON, 13 - 14 NOVEMBER 2008



Confederação Europeia  
de Sindicatos

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Intersindical Nacional

# **INTERNATIONAL SEMINAR**

## **"WORKING TIME IN EUROPE - CONTEXT AND TRADE UNION INTERVENTION"**

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### **TENDENCIES AND PROBLEMS OF WORKING TIME IN EUROPE**

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## 1. Trade Union action to reduce working time

Setting limits to working time was always a key demand of the Trade Union movement since early days, in the 19<sup>th</sup> century. The fixing of an 8 hour working day (allowing 8 hours for sleeping and 8 hours (and 8 hours for leisure) became one of the major targets of the struggle of working class movements and gave rise to struggles which were at the heart of the 1<sup>st</sup> of May commemoration.

These actions led to setting the first legal regulations that limited the working day, initially directed at people in need of more protection, like women and children, and later to all workers. In 1919, the ILO adopted the first International Convention, according to which working time could not exceed 8 hour/day and 48 hour/week. In 1935, in a context of high unemployment, Convention N° 47 was adopted, laying down the principle of the 40 hour week.

These Conventions were adopted in the context of the century-old tendency of reducing working time, covering not only the daily and weekly work duration but also other dimensions like annual paid leave. In the beginning of the 20<sup>th</sup> century, the annual duration was around 2600 hours, whilst in our present times it varies from 1300 to 1800 hours, in most OECD countries.

The rise in unemployment, after the mid 70's, adding to the influence of neoliberal ideas, brought deep consequences for working life. Work duration became more stable and when this did not happen, it was especially due to increase in part-time work. But this was not a uniform process, nor free from contradictions, with some important progress occurring in some cases. Here we recall the struggle for the 35 hour working week, organised by IG Metall, in Germany, at the end of the 70's and which was to be implemented already during the 90's; or the legal establishment, at the end of the 90's, of the 35 hour week, in France.

Working time went through many important changes, after the early 80's. In its initial phase, it became more associated with the fight against unemployment, in a framework of conceptions which departed from the principle that, work being scarce, it should be better shared, although this was limited to just a few countries; in other countries, the prevailing concept was that the most efficient way to increase the population's productive contribution, especially that of women's, would be to develop part-time work; in a few other countries, working time policies emphasized workers' greater readiness to use it.

However, the most relevant change was working hours being subordinated to the companies' predominant interests or to production constraints, without seeking alternatives, despite hurting workers' personal and family lives. The classical (daily and weekly) reference periods, for the calculation of working time became broader and currently the European Council wants to enshrine a 12 month reference period in the review of the 2003/88/CE Directive on working time. Although it is difficult to evaluate the impact of flexibilisation in all EU member states, it is a fact that flexible working hours, even when they are not predominant, have a stronger weight. A new fact emerged in the middle of our decade, with workers not opposing longer working hours in some companies, notably in the multinationals, in a context of threat of "delocalisation".

## 2. Working time in Portugal

Each country has its history of labour relations, which is built from specific economic, social, cultural and political dimensions, from the collective action and from the respective development grades and models. Nonetheless, the guiding line of its evolution in Portugal followed the same pattern of other European countries: very long working hours when industrialization began; emergence of social issues; first social laws, where daily and weekly hours were set; relevance of trade union action in achieving the 8 hour working day; significant reductions in working time throughout the 20<sup>th</sup> century; shift in working time policies after the 90's of the last century.

Our objective not being developing in these documents all correlated issues, it is nonetheless worth underlining some essential traces. First of all, the setting in 1919 of the 48 hour working week (meaning an 8 hour working day, until then the major demand of the working class and trade union movement) for workers in general and 42 hours for bank and office clerks. But not all workers were covered, and besides, the 8 hour law (confirmed in 1934, already during fascism) was widely infringed, with 10 to 12 daily working hours being the common feature. Another important landmark in the Portuguese social history was the attaining in 1962, through strike actions of the Alentejo farm workers, of the 8 hour working day.

When the Revolution took place, on April 25th, 1974, the majority of the workers, including those in the manufacturing industry, had a 48 hour working week, besides overtime. In the following years, collective bargaining played a key role in reducing and regulating working time, particularly: reducing the working week from 48 to 45 hours and even less in some sectors; regulating shift work; establishing pauses during the normal period of work; negotiating complementary holiday periods in relation to the legal minimum standards; establishing measures to reconcile work and family life.

However, in legal terms, the average maximum weekly duration in 1985 was still 48 hour per week (42 hours for office clerks) – although the duration implemented was shorter, of around 43 to 44 hours. Some sectors like public administration, banking and insurance had less than 40 hours. It was in this framework that the CGTP-IN defined, in its 5th Congress, in May 1986, to struggle for a 40 hour week, without pay loss, as a central goal, this having led to new reductions not only in some companies but in whole sectors.

These reductions created the conditions for the reduction of maximum weekly working hours, through legislation, in the 90's. Initially bringing it down to 44 hours in 1991 and later to 40 hours in 1996 – 1997. The 1990 Social Dialogue Agreement set the compromise of progressively reducing the weekly duration, with the target of 40 hours by 1995, but this was not implemented by the employers, because they wanted to limit the reduction of flexibility. The same discussion took place during the 1996 social dialogue agreements. Later, legislation included the reduction of working hours by legal means, but at the same time, the so-called reduction counter parts were established. Although the most important one was flexibility (or adaptability) of working hours, there were others, especially the possibility of eliminating work pauses which the employers were seeking and, in the 1996 Agreements, the enshrining of a multi-skill regime. The CGTP-IN which was the organisation that gave impulse to reducing working hours through collective bargaining and labour legislation, did not sign those Social Dialogue Agreements because it considered that flexibility, the way pauses or work breaks were dealt with and multi-skilling reduced the scope of the working hours reduction and removed workers' protection.

In that period we must highlight the resistance against mechanisms that make working hours more flexible and, particularly, the long and bitter struggles to apply the 40 hour week, which the employers tried to limit to the elimination of work breaks, this having led to strike action, for weeks, in defence of the break periods. These strikes actually lasted for 15 months, between December 1996 and February 1998.

These aspects conditioned collective bargaining in the following years and they are still nowadays important points of dispute in collective bargaining. In the present conditions, collective bargaining is currently dominated by questions connected with the organisation of working time, especially flexibilisation, and less by working time reduction, although Unions have not abandoned this demand.

In the turn of the century, the CGTP-IN adopted, in its 9th Congress, held in December 1999, the struggle for the 35 hour working week, without loss of pay or rights.

The 2003 Labour Code went further in terms of flexibilising working hours, but it made them depend, and this is important, on collective bargaining arrangements. In its current review, one of the main points of CGTP-IN's disagreement is precisely the regulation of working time. The text which Parliament has just adopted, only with "yes" votes of the majority, of the Party in government, enshrines new forms of flexibility (as the "hour baskets" and concentrated timetables) and deepens some of the existing forms (group adaptability) with the aim of cutting down labour costs, strengthening the power of employers, namely by not paying overtime until 12 hours a day and 60 hours a week, and enlarging the setting of working hours through labour agreements and individual labour contracts.

Furthermore, we have the changes introduced in connection with the rights of working fathers and mothers and the promotion of shared parental responsibilities, as well as equality among parents. All of these are almost exclusively centred in the first year of the children's life, thus ignoring that they need daily care and attention all through their childhood and even their adolescence, and this is clearly incompatible with long and irregular working periods and that may be constantly changed, at the will, needs and interests of the employers.

The CGTP-IN considers that the content of the several agreed provisions in the draft bill requires that competent bodies demand a pre-emptive constitutional verification.

### **3. The European Directive on working time**

European competences in terms of employment developed after the Maastricht Treaty, although there were already some initiatives before that. It is important to underline the creation of the Permanent Committee on Employment, in the beginning of the 70's and the Council's adoption, in 1975, of a recommendation for member states to enforce the 40 hour week and 4 weeks of paid leave.

The 90's are marked by the adoption of the Council Directive 93/104/CE, of 23 November 1993, concerning organisation of working time. For the first time, this directive imposes, at European level, the respect for the minimum safety and health requirements in the organisation of working time. Thus, on the basis of research work that established the existence of a clear relationship between long working hours and an increased risk of accidents at work, due to loss of concentration, and also the risk of catching other diseases (heart, diabetes, intestine disturbances and stress-related troubles) for the first time working time was limited, on the grounds of safety at health at work.

This Directive establishes the 48 hour week (average) and this includes overtime and it may be calculated during an average 4 – month period; an annual 4 week paid leave; an 11 consecutive hours minimum daily rest period; a break if the working period exceeds 6 hours; a maximum average 8 hour night work period, for 24 hour periods; one weekly day of rest.

However the directive also includes some derogation which, due to its significance and dimension, undermines the very principles underlying the Directive, since they allow for the almost unlimited extension of working time extension of working time.

Among these derogations, the most important one is the possibility of (“opting-out”), that is, the possibility for member states not enforcing the already flexible framework of protective measures, which are contemplated in the Directive – the possibility of not enforcing article 6 of the Directive (48 hour average), depending on the worker’s agreement, allows for the almost unlimited enlargement of working time, only mitigated by the vague obligation of measure was designed to satisfy the United Kingdom, a country which has the longest working hours in the EU.

In fact, the individual “opt-out” possibility frontally opposes both the objectives and provisions of the Directive on working time and the fundamental principles of safety and health at work.

Another important derogation concerns annual working time – the 4 month reference period may be enlarged to 6 and even to 12 months, through collective labour agreement.

The implementation of the Directive highlighted, on the one hand, a large diversity of ways of how to calculate working time in the different member states and, on the other, the existence of major problems in the regulation of working time in Europe.

Besides that, these different major problems in the regulation of working time, raised by the enforcement of the Directive, started to show in a clear way the need to review the Directive.

Among these problems, we underline: First, long working hours in some countries, as in the United Kingdom, where 2/3 of the workers do not know that there is a limit of 48 hours, so this means that this country clearly infringed the Directive, since the worker’s agreement to prolong working hours is required in the Directive. Second, the setting of a 4 month reference period paved the way to employers’ demands for greater flexibilisation, with stronger claims that annual calculation is enshrined in the law. Third, the rulings of the European Court of Justice that recognize that inactive working time periods (on call for the company) were part of it, were the pretext to raise the tone of the debate on the definition of working time itself.

In this context, the review of the Directive, launched at the end of 2003 by the European Commission, became extremely important.

What is at stake today?

What is first and foremost at stake, is the annual calculation of working time. In fact, the larger is the period of reference for the calculation of working time, the stronger becomes the probability, of the existence of excessively long working periods, threatening health and safety and the reconciliation of workers family and individual lives with their work.

Then is also at stake the extension of the derogation of the mechanism weekly period, through individual agreement, objectively favouring, with this enlargement, the practice of a country that did not enforce one single regulation which it had asked for. Instead of eliminating, what is really enlarged is an exceptional regime, as was proposed by the European Parliament. This is why the European Council adopted, last June, a position in which working hours may exceed 48 hours and even reach 60 hours a week, if calculated during a 3 month period (meaning that in some of those weeks they may exceed 60 hours) or even 65 hours, in case the inactive period of on call time is considered as working time, a fact that would only be matched by working hours in the down of the Industrial Resolution.

What is also at stake is a change in the concept of working time, enshrined in the Directive, through the creation of an intermediate category between “work” and “non-work”, called “inactive period of permanence time”(which in practice leads to measuring working time in terms of effective periods, to satisfy the employers’ exclusive interests) which the consequences to be expected of removal of workers’ protection.

What is finally at stake is the elimination of safeguards concerning the period of compensation.

To summarise, if the amendments to the Directive, proposed by the Council, are adopted by the European Parliament in the vote expected to take place on 17 December, this would mean an inadmissible regression in men and women workers rights, not only weakening the already feeble level of protection of their safety and health and also making more incompatible the reconciliation of their work with their personal, family and social life.

These intentions have already implied the unanimous rejection of the directive’s review by the Spanish Parliament and they are also origination strong social rejection and struggle in several EU countries. These reasons will be a strong motivation for the just protest and action of the European workers and trade unions who, on December 16<sup>th</sup>, will demonstrate in Strasburg, in front of the European Parliament, demanding the rejection of the Council’s proposal.

#### **4. Working time in Europe**

The comparison of working time in different European countries is not easy. That difficulty derive from several factors, notably:

- The existence of different ways of calculating working time, since the annual calculation, instead of weekly, is becoming common in many countries;
- The fact that working time reduction in many countries was carried out by allowing more rest days or cuts in annual hours, without changing the normal weekly working hours;
- The growing use of different mechanisms related with the variation of weekly working hours, based on an average of a reference period;
- The treatment of partial working time;
- The different role of collective bargaining and legislation, in some countries with a real impact on the duration of working time, while in others it simply works as a “minimum safety net”;

- The normal duration of the working week also raises problems because many countries do not take into consideration overtime nor leave and holiday periods.

Despite shortcomings, we include a Table obtained from the edition of the OECD Employment Outlook 2004, with figures related to 2002. This institution also alerts to the methodological problems and therefore those figures should be carefully read.

The average annual working time duration of workers in Europe was 1567 hours in 2002, according to OECD quantification<sup>1</sup>. This annual figure takes into account several factors, the more relevant being: the working week, overtime and leave and holidays during the year. These different factors are included in the Table below.

There are considerable differences among European countries. The most common working week in the main job is lower in the Netherlands (30.1 hours), and higher in Slovakia, Hungary, Greece and Poland.

The number of weeks worked in one year is around 41. This number is obtained by dividing the total number of weeks (52), the number of days (converted into weeks) which are not days of work since they are days of leave, public holidays or other type of non-work days (illness, maternity, accident, etc.). The number of worked weeks is especially conditioned by leave days or public holidays (6.8 weeks on average), although these are countries, like the Nordic, where maternity and parental leaves also have an influence.

The usual working week was shortened in the 1990 – 2002 period, but this reduction was essentially due to the increase in the number of workers on part-time. The reduction in working hours of workers on open – ended contracts (full-time) also contributed and was particularly significant in countries like France (In 1999 the 35 hour week was introduced), in Portugal (40 hour week in 1996 – 1997), in Belgium (maximum 38 hour week, in the law) and Sweden. In other countries, on the contrary, there was an increase of working time, like in Slovakia. The most important factor was, in any case, the increase in the proportion of part-time workers, especially in some countries (Netherlands, Ireland and Belgium).

Os dados da OCDE mostram igualmente que 20% dos homens têm horários longos (acima de 45 horas) e que esta proporção se mantém estável desde 1990.

The share of workers on night, shift and weekend work is equally high. Shift work covers 18.2% of the workers and is very high in Poland (36.8%) and Slovakia (31.2%) being very low in Denmark (5%).

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<sup>1</sup> OECD, **Employment Outlook 2004**; [www.oecd.org](http://www.oecd.org).



## Working time in Europe (2002)

	Working hours		Working weeks		Hour variation due to:		Shift-work %
	Year	Week	Year	Leave an Public Holidays	Full-time 1990-2002	Part-time 1990-2002	
Austria	1497	36,6	39,0	7,2	1,8	-3,0	10,0
Belgium	1451	35,7	40,0	7,1	-3,4	-4,0	9,6
Czeck Rep.	1692	40,4	41,0	6,2			26,4
Denmark	1410	34,8	38,9	7,4	0,3	1,8	5,0
Spain	1639	38,6	42,2	7,0	-0,5	-2,2	7,4
Finland	1491	36,9	38,5	7,0	-0,1	-0,9	24,4
France	1467	35,2	40,5	7,0	-4,2	-2,3	9,6
Germany	1480	35,2	40,6	7,8	-1,3	-3,8	11,8
Greece	1816	40,2	44,6	6,7	3,2	-0,3	18,6
Hungary	1798	40,3	43,9	6,3	1,1	-0,2	22,1
Iceland	1714	39,9	39,6	6,1	1,1		24,4
Ireland	1585	35,8	43,7	5,7	-2,1	-5,5	16,3
Italy	1533	37,2	41,0	7,9	-1,3	-2,0	21,8
Luxemburg	1582	37,3	41,7	7,5	-1,7	-2,3	10,9
Netherlands	1223	30,1	38,4	7,5	0,3	-8,9	8,5
Norway	1339	34,8	36	6,5	-2,1	2,9	23,5
Poland	1817	40,2	43,4	6,2			36,8
Portugal	1688	39,3	41,8	7,3	-4,0	-0,8	17,8
Slovak Rep.	1761	41,4	42,2	6,9	4,4	0,3	31,2
Sweden	1349	36	35,4	6,8	-3,2	2,8	24,1
Switzerland	1586	34,3	42,3	6,0	0,2	-3,9	13,4
United Kingdom	1546	37,2	40,5	6,5	-0,1	-1,8	18
<b>Average*</b>	<b>1567</b>	<b>37,2</b>	<b>40,7</b>	<b>6,8</b>	<b>-0,6</b>	<b>-1,8</b>	<b>17,8</b>

Source: Obtained from OECD, **Employment Outlook 2004**; \* Unweighted average

### 5. Current problems of working time

In which situation due we find problems relating to working time? The answer is not a straight one since there is no linear evolution. Nether less, it is worth while drafting tendencies which will help us better understand the framework of different national experiences.

#### *Working time, living and working quality*

First of all, the reduction of working time is still a very timely issue in today's world and it even became more relevant as an element which determines the quality of people's lives, but simultaneously it lost strength as a trade union claim. Nowadays we detect a contradiction between the continuous increase of labour productivity, which objectively sets the conditions for a strong reduction of working hours and the current reality in which those reductions are limited, while a significant number of workers have long working hours. Unpaid overtime emerged and became common practice in several

sectors. Many youngsters entering the labour market are forced into accepting to prolong their working hours, without pay.

This problem worsens with job precariousness and with the weaker role of collective bargaining in determining working life, that is, when working life is mostly determined by individual labour contracts. Adding to this the fact that a significant share of the workers have irregular, night and shift working hours.

This situation has consequences in the living and working standards. Longer working hours mean less time for rest, for family life, for cultural improvement, for participation in civic life. Long hours, flexible working time and the so-called night, shift and weekend working hours enter into strong conflict with family life. Some of these working times also have implications in the workers' health and safety. Research carried out by the ILO<sup>2</sup> indicates that long working hours increase the risk of mental health disorders and heart diseases and are also associated with behaviours which are damaging for health (more tobacco consumption as well as poor and irregular diets). When long working hours are associated to intense work rhythms and to repetitive and monotonous work, are behind the development of work-related muscle-skeletal disorders.

### ***Working time, productivity and competitiveness***

In the second place, the duration of work and the organisation of work in general tend to be more subordinated to the needs of enterprises (the alleged requirements of productivity and competitiveness) and less to the workers' needs.

The concept of "flexible hours" and "working time flexibility" are ambiguous. The first had its root in the worker being available for longer working hours, thus hours of start and end of his/her work could vary. However, the concept expresses the opposite nowadays: working time is not adequate to the workers needs but rather to the requirements of the enterprises – to fluctuations in productive activity (its "peaks" and its "downs"), for example. Overtime pay may, in some sectors and industries, represent an important cost, therefore workers are pressurized into accepting organisation forms that lower the costs, with the justification based on the loss of competitiveness by the enterprises, thus increasing their profit, while intensifying workers' exploitation.

So, an important contradiction emerged, between flexible working hours, which are mostly determined by the needs of the enterprises and workers personal and family lives. The official speech emphasises that work, family and private lives are compatible, while, at the same time, they propose working hours which lead to prolonging working time. They introduce daily working periods of 10, 12 and more hours, with the argument that, in other days, there will be compensation, with shorter working days – without caring to know whether the human body also accepts that flexibility and if the organisation of private life is compatible with that deregulated model.

### ***Diversifying working hours***

In third place, working hours tend to be increasingly diversified. Today, there is a smaller proportion of workers on fixed working periods and on full-time work. It would be nevertheless hasty to say that those working hours are no longer the rule. This also because, yesterday like nowadays, working time arrangements are still widely unknown. But there are not too many doubts left that nowadays there is a much larger proportion of workers who have working hours that are different from standard working periods: workers on flexible working time; flexible hours with different reference periods for the

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<sup>2</sup> Anne Spurgeon, **Working time: Its impact on safety and health**, ILO, 2003.

calculation of the average duration; part-time with differing durations; shift hours (three shifts, continuous, etc); weekend hours; night work; concentrated working periods, etc.

Several political, social and economic factors explain this evolution. The application of neoliberal policies that favour the economic factor to the detriment of the social aspects and the weakening of trade unionism in many countries, enhance a stronger individualisation of labour relations. There are also other reasons that lead to great diversification such as: the pressure to cut labour costs leads to increasing working time flexibility (non payment of overtime); the rise of women's employment is associated with the growth of part-time work, which in some countries developed as an alternative to social equipments in support of the families; the acceleration of the period of redemption of those equipments, which has consequences on shift work

We might ask ourselves if all this evolution is in line with the principle "labour organisation, according to a certain rhythm, should respect the general principle of work being adapted to men", included in the 1933 Directive on working time, or if it is the other way round, with human beings having to adapt to the constraints of production.

### ***Work intensification***

In third place, work tends to be more intensive, meaning that it requires more speed to perform it. Enquiries on working conditions in Europe, carried out by the Dublin Foundation since 1991, show that since then there was a clear increase in work's intensity, as workers live it<sup>3</sup>. When we add to this intensification a low degree of worker's control when doing that work, this results in added stress, according to the classical analysis of this phenomenon.

This evolution is linked to deep changes in work organisation: production is more flexible and with less hierarchy, but production deadlines are stricter and quality requirements are tighter; new technology induces a more efficient control over work; the pressure felt by workers is higher due to job precariousness, out letting, flexible working hours, "delocalisations" (or its threat); the nervous strain increases as a result of new technology (although physical strain has still not disappeared); requirements in terms of multi-skilling are stronger.

A symptom of this evolution may be found in the trend to eliminate "dead hours", to shorten meal periods and to eliminate pauses, breaks and tolerances, like those traditionally included in collective bargaining. Likewise, we have to mention the introduction of concentrated working periods and not considering "on-call" periods as working time. All these changes have consequences, often not analysed, in the quality of living and working standards.

### ***Individualisation of working time***

In fourth place, there is a stronger individualisation of working time with the weakening of collective determination resulting from collective labour agreements.

The individualisation of working time may be caused by several factors: employers imposing working hours that disrespect contacts and legal regulations; less workers covered by collective labour agreements; **employers blackmail to change working hours, with the excuse of preserving jobs.**

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<sup>3</sup> European Foundation for the Improvement of Living and Working Conditions, **Fourth European Working Conditions Survey**, Luxembourg, 2007....

Job precariousness, or underground labour insufficient or inefficient control and punishment systems regarding labour standards, decreased trade union bargaining power and the growing individualisation of society and work in general, favour this tendency.

### ***Working time and the productive contribution of the population***

In fifth place, working time is increasingly seen in terms of the population's productive contribution ( for example, the OECD).The bottom-line of that analysis is that standards of living are determined by productivity and by the utilisation of work, measure4d by the number of hours every person works. These working hours depend on economic, demographic and social factors: the age structure of the population, employment rate and hours of work of each worker. For the population to be more productive it is necessary, according to this international institution, not only having more flexibility, but also to increase the rate of employment ( for instance, to increase the participation of women in the labour market) or incke the age of retirement go up.

In the 70's and 80's, we saw the reduction in the member of working hours of each person, as a result of shorter working hours for each worker. The most important factor was the shorter working week. But after the 90's, the member of OECD countries that increased working hours, in terms of hours/person, went up, especially as a result of a higher employment rate.

This analysis led to attributing a greater value to productive contribution than to productivity: there were accusation against some European countries of "not working hard" in comparison with countries with long working hours like the USA; being in favour of longer working lives. Funnily enough, there is not much criticism of unemployment. Although the growth of unemployment may be fundamental for more people to be able to accede to paid work and for he funding of social protection systems, what is at stoke is, above all, the increase of working hours, including its weekly duration.