



**EUROMIL aisbl**

(European Organisation of  
Military Associations)

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**To**

***Mrs. Marianne Thyssen, Commissioner Employment, Social Affairs, Skills and Labour Mobility***

**And**

***Mr. Allan Larsson, Special Adviser for the European Pillar of Social Rights***

Brussels, 08 February 2017

Dear Mrs. Thyssen,

Dear Mr. Larsson,

EUROMIL is delighted to note that you are planning to publish an *interpretative communication* on the EU Working Time Directive (WTD) in March, complementing the European Pillar of Social Rights.

The European Organisation of Military Associations (EUROMIL) is an umbrella organisation composed of 33 military associations and trade unions from 21 countries. It is the main Europe-wide forum for cooperation among professional military associations on issues of common concern. EUROMIL strives to secure and advance the human rights, fundamental freedoms and socio-professional interests of military personnel of all ranks in Europe and promotes the concept of "Citizen in Uniform". As such, a soldier is entitled to the same rights and obligations as any other citizen. EUROMIL particularly calls for recognition of the right of servicemen and -women to form and join trade unions and independent associations and for their inclusion in a regular social dialogue by the authorities.

The topic of working time regulations is of major importance for EUROMIL and its member associations, which is why the organisation has followed the discussion on a possible revision of the WTD closely.

In the "Detailed report on the implementation by Member States of Directive 2003/88/EC concerning certain aspects of the organisation of working time ('The Working Time Directive')" [COM(2010) 802 final], the Commission notes that "in a number of Member States, the Directive does not appear to be transposed correctly, or transposed at all, regarding certain parts of the public service. This applies particularly to the armed forces (...)".

Unfortunately, the situation has not changed much during the last years. In some European countries, military personnel were generally excluded from the



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transposition of the WTD. The reason for this failure to protect also military workers adequately derives from the definition of the scope of the WTD. The scope of the WTD (article 1) is the same as set out in article 2 of the EU Safety and Health Directive [89/391/EEC]: "the Directive shall not be applicable where characteristics peculiar to certain specific public service activities, such as the armed forces or the police, or to certain specific activities in the civil protection services inevitably conflict with it." Some Member States therefore chose to generally exclude members of the armed forces from the scope of application.

EUROMIL however strongly advocates that there should be no *en bloc* exemptions from the WTD in public service and the security forces in particular. This means that any diversion from the provisions of the Directive in these fields, shall be possible only to the extent and that specific activities of the armed forces unconditionally justify it, and that adequate compensatory safeguards simultaneously are put into effect to guarantee the highest level of workplace safety achievable in the specific situation.

In several Member States the implementation of the WTD in the armed forces is since long time on the table. EUROMIL believes that a clear statement through the interpretative communication on the WTD could influence these discussions in a positive way.

The European Court of Justice has already decided in two cases that the restriction clause (article 2) cannot serve to exclude a whole occupational group from the application of the directive, even if they are prohibited by law to strike, such as e.g. medical personnel on emergency duty (*SIMAP*), hospital personnel with standby duties (*Jaeger*) or firemen (*Personalrat Feuerwehr Hamburg*). It only enables the individual Member States to exclude precisely defined and delimited activities in the services mentioned, if it is not possible to fully comply with the provisions of the directive.

EUROMIL strongly believes that working time remains an issue of health and safety. Military personnel are assuring security for others and should therefore not be excluded from basic security and safety provisions.

I thank you for your kind consideration of this letter and hope that you will be able to use the information provided when drafting the interpretative communication on the EU Working Time Directive. I remain at your disposal should you be interested in discussing this issue in person.

Yours sincerely,

Emmanuel Jacob  
President