



European Organisation of
Military Associations and
Trade Unions

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EUROMIL Position Paper on Working Time in the Armed Forces

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Background information

The [Directive 2003/88/EC](#) concerning certain aspects of the organisation of working time (in short: Working Time Directive – WTD) sets out general principles with regard to working time. Working time of military personnel is an important issue for EUROMIL and its member associations. Closely linked to health and safety at work, adequate working hours, including provisions for rest time, are necessary to ensure that military personnel can safely execute their tasks in oftentimes demanding and high-risk environments and deliver good results. Military personnel are assuring security for others and should therefore be able to operate in the best possible working conditions. Safety, welfare and health of personnel must be uppermost in the minds of authorities when planning activities and derogations.

EUROMIL recommendations

No en bloc exemption of military personnel when implementing the WTD on national level

EUROMIL strongly recommends that there should be no *en bloc* exceptions from the WTD in the public service sector and the security forces. Any diversion from the provisions of the Directive shall be possible only to the extent that specific activities of the armed forces unconditionally justify it, and that adequate compensatory safeguards are simultaneously put into effect, to guarantee the highest level of workplace safety achievable in the specific situation.

Clear, comprehensive, coherent and binding working time regulations

EUROMIL calls for the creation and implementation of clear, comprehensive, and binding working time regulations specific to the armed forces to regulate the regular working hours for soldiers, including appropriate compensation for overtime, for example through remuneration or time credits. Such regulations should establish how to monitor, in a suitable (automated) way, whether the maximum weekly working time and the minimum daily and weekly times of rest prescribed for in the WTD were respected. These regulations should be negotiated in a fair and transparent manner, through social dialogue with the representatives of staff associations or military unions, resulting in a collective binding agreement between the employers and employees.



Limitation of average weekly working hours for soldiers as ensured by the WTD

In the armed forces, protection against long and irregular working hours is a crucial aspect of health and safety prevention. The strain put on soldiers, with the increasing participation in international missions and an ever more challenging working environment due to lacking recruitment and high budgetary pressures, results in a lengthening of working time, in particular for on-call duties.

EUROMIL stresses the importance of protection against long and irregular working hours in the armed forces for health and safety prevention.

On-call time is working time

Following the judgement C-518/15 of the European Court of Justice (ECJ) on the application of the WTD to workers in the defence sector and military personnel, on-call duty if seriously restricting the employee's opportunities for other activities must be regarded as "working time".¹

EUROMIL recommends that all working time, defined as any period during which the soldier is working at the employer's disposal and carrying out his activity or duties, be it on-call or for emergency preparedness, should be counted as working time.

Working time during specific military activities

The ECJ, in Case C-742/19 opined that members of the armed forces are not automatically excluded from the WTD provisions but only in certain specific circumstances.² Therefore, the Court set forth in clear terms which specific security activities of military personnel are excluded from the scope of the Directive.

EUROMIL holds that during international military operations and missions with their specific security conditions and for specific military activities, exceptions to working time regulations can apply. However, daily working time periods should be clearly defined and controlled so that the total working hours are taken into account for the calculations of the reference period, be it weekly, monthly or yearly.

Reconciliation of professional and family life

EUROMIL calls for a better balance between professional and family life by streamlining work-life balance measures with working time regulations. Additionally, parental, paternity and maternity leave regulations have to be formulated and implemented, while childcare facilities within army facilities should be developed further to benefit the families. This would contribute to the

¹ More information about the judgement C-518/15 can be found here: <http://euromil.org/a-step-in-the-right-direction-for-the-implementation-of-the-working-time-directive/>.

² Case *B.K. v Slovenia* (C-742/19).



attractiveness of the armed forces as an employer in general and make it more appealing to men and women to join the forces.

Annual leave

EUROMIL believes that all members of the armed forces have an absolute entitlement to their annual leave. Additionally, members are entitled to pay/allowances during the period of annual leave that reflect their working time, and that where members are unable to avail of all of their leave, they should be entitled to carry the full allocation over until such time as they can avail of their leave entitlement.

Right to disconnect

The right to disconnect is necessary for the protection of workers' physical and mental health. Here too, EUROMIL believes that military personnel, in this changed world of work, should have the same, if not similar, measures taking into account their specific assignments, after consultation with the social partners through the appropriate social dialogue channels. The lack of entitlement to disconnect and delineate between working time and family time has a negative impact on retention and recruitment, which ultimately impacts the ability of the states to ensure adequate levels of defence.

Conclusions

- Exemptions from the Directive should be limited to extreme or absolutely necessary circumstances and working hours outside of normal hours should be appropriately compensated;
- Any implementation of the Directive should be done through direct negotiation and consultation with the representative bodies of members of the armed forces in each state;
- The rights and entitlements should be clearly communicated to personnel;
- Any work performed outside of regular working hours should be compensated and properly monitored to maintain the health and safety of the personnel;
- All military personnel are entitled to at least 4 weeks annual leave with full pay allowances: where full leave allotments cannot be granted in the appropriate year, full carryover of unused leave should be provided for;
- Any exemption or derogation from the scope of the Directive should not arise from failure to provide adequate resources that give rise to shortages of appropriately trained and qualified personnel.