

EN
E-001846/2024
Answer given by Mr Schmit
on behalf of the European Commission
(8.11.2024)

The Working Time Directive 2003/88/EC¹ applies to all sectors of activity and lays down minimum safety and health requirements for working time.

The Directive offers significant flexibilities to establish derogations in sectors and situations where this is necessary or where provided for by collective agreement at national or regional level. Notably, in the case of activities requiring continuity of production, which may include the defence industry, Member States can derogate from several provisions of the Directive², provided that the workers concerned receive equivalent periods of compensatory rest or, in exceptional cases, appropriate protection³. Under strict conditions, Member States may also allow individual workers to opt out of the 48-hour average maximum weekly working time⁴.

The Court of Justice of the EU has moreover held that the Directive may be temporarily disapplied for certain activities in circumstances whose gravity and scale are exceptional⁵.

The Commission considers that these provisions provide for sufficient flexibility for the European defence industry.

Article 18 of the Commission's proposal⁶ leading to Regulation (EU) 2023/1525⁷ encouraged Member States to use the flexibility as regards working time in the defence industry as provided for by Directive 2003/88/EC, without modifying it in substance.

The Commission considers that Directive 2003/88/EC allows for sufficient flexibility to accommodate the legitimate needs of the sectors to which it applies, while safeguarding workers' occupational safety and health. It does not intend to propose a revision of the Directive.

¹ Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time, OJ L 299, 18.11.2003, p. 9-19 - <https://eur-lex.europa.eu/eli/dir/2003/88/oj>

² Articles 3 (Daily rest), 4 (Breaks), 5 (Weekly rest period), 8 (Length of night work), and 16 (Reference periods).

³ Article 17 of Directive 2003/88/EC.

⁴ Article 22 of Directive 2003/88/EC.

⁵ Judgment in Case C-742/19, Ministrstvo za obrambo, ECLI:EU:C:2021:597.

⁶ Proposal for a Regulation of the European Parliament and of the Council on establishing the Act in Support of Ammunition Production, COM(2023)237 final - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52023PC0237>

⁷ Regulation (EU) 2023/1525 of the European Parliament and of the Council of 20 July 2023 on supporting ammunition production (ASAP), OJ L 185, 24.7.2023, p. 7-25 - <https://eur-lex.europa.eu/eli/reg/2023/1525/oj>