

# MONDAY, 4 MAY 2009

## IN THE CHAIR: MR PÖTTERING

*President*

*(The sitting was opened at 5.05 p.m.)*

### 1. Resumption of the session

**President.** – I declare resumed the session suspended on Friday 24 April 2009.

### 2. Statements by the President

**President.** – Ladies and gentlemen, a few days ago marked the fifth anniversary of the biggest enlargement in the history of the European Union. On 1 May 2004, seventy-five million people from ten countries in Central and Eastern Europe, as well as the Mediterranean – namely Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary, Slovenia, Malta and Cyprus – expressed their pleasure at becoming citizens of the European Union. This enlargement was followed in 2007 by the accession of Romania and Bulgaria.

The fact that this was possible was one of the most amazing developments of our time. After the people of Central and Eastern Europe had suffered sixty years of oppression, the enlargement of the EU represented the completion of the reunification of our continent, based on the shared values of freedom, democracy, the rule of law and respect for human rights and human dignity. As a result of this process, the EU has gained in strength, diversity and cultural richness. The enlargement process was, and is, an enriching experience for every single Member State, as well as for the EU as a whole.

Five years after that historical moment, enlargement has proved to be a great success for the EU. Its significance for the everyday lives of our citizens has continued to increase. After the servitude of Communism, the enlargement process contributed to making democracy a reality and to strengthening stability on our continent. Enlargement improved the standard of living in the new Member States and provided a powerful stimulus for the whole European economy, as the old Member States also benefited from the new export and investment opportunities, as well as a larger market. In essence, the accession of twelve new countries has strengthened the position of the EU worldwide, and has lent it more weight as an international political and economic actor.

During the five years that have passed since enlargement, we in the European Parliament, and the other institutions of the European Union, have succeeded in integrating our new members. We have learnt to meet each other half way and to work together more closely. However, a larger and more diverse EU requires closer cooperation and the a greater capacity to take action.

The Treaty of Lisbon contains the core reforms necessary to adapt the EU's institutions to the consequences of enlargement and to place them in a position to meet the challenges we face. Even if the discussion about the ratification of the Treaty of Lisbon has yet to be completed, we should be confident that we will have a positive result at the beginning of next year and we are hoping for a positive result in the Czech Senate next Wednesday.

*(Applause)*

Ladies and gentlemen, we should be extremely pleased that we are part of this community today and, as it is so beautifully put in the Berlin Declaration of 25 March 2007: 'we have united for the better'. We have cause to be pleased and thankful.

Now we must turn to a rather worrying fact: I wish to express our profound concern regarding the tragic situation facing the US-Iranian journalist Roxana Saberi, who has been sentenced to eight years in prison for allegedly spying on behalf of the US, and is currently being held in the Evin prison in Tehran. On behalf of the European Parliament, I would like to join the President of the European Council, and the President of the US, in demanding Roxana Saberi's immediate and unconditional release.

*(Applause)*

The case of Roxana Saberi reflects the dramatic overall situation in Iran in terms of human rights, which, since 2005 – especially in relation to civil and political rights – has continued to deteriorate, in spite of the fact that, within the framework of existing international instruments, Iran has made a commitment to promoting and protecting human rights. The sentencing of Mrs Saberi comes at a critical moment: two months before the presidential elections in Iran, and only a short time after efforts were initiated by the US and the EU to improve relations with Iran.

I am deeply concerned that, in the light of the political developments underway, Mrs Saberi could be used as a bargaining chip, and I would like to condemn in the strongest possible terms a move that is so clearly politically motivated. I would like to assure Mrs Saberi's family of our solidarity and the strong commitment of the European Parliament to ensuring unconditional respect for human rights and democracy in Iran and throughout the world.

(Applause)

I would like to add that we have been informed that a young woman in Iran, who was accused of having committed a crime when she was a minor, has now been executed. This is contrary to all the rules of international law and we raise our voices against this crime.

(Applause)

Finally, I would like to inform you that after the tragic events which took place in Appeldoorn, in the Netherlands, last week, I have conveyed, on behalf of all of us, our deepest condolences to the Dutch Queen, the families of the victims and the Dutch people, and that, across Europe, we stand shoulder to shoulder with our Dutch friends.

These were some items of news. We will now return to our usual business.

### **3. Approval of the minutes of the previous sitting: see Minutes**

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**Johannes Blokland (IND/DEM).** – (NL) Mr President, Queen's Day in the Netherlands is the annual occasion when the entire Dutch population celebrates with the House of Orange-Nassau. These celebrations were brutally disrupted, and we have barely recovered from the shock. We remember the victims and express our condolences to their relatives. On behalf of the Dutch delegation, I should like to thank you for the letter you sent on behalf of the European Parliament to our queen Beatrix.

### **4. Verification of credentials: see Minutes**

### **5. Signature of acts adopted under codecision: see Minutes**

### **6. Corrigenda (Rule 204a): see Minutes**

### **7. Announcement by the President: see Minutes**

### **8. Documents received: see Minutes**

### **9. Oral questions and written declarations (submission): see Minutes**

### **10. Action taken on Parliament's resolutions: see Minutes**

### **11. Petitions: see Minutes**

### **12. Transfers of appropriations: see Minutes**

### 13. Order of business

**President.** The final version of the draft agenda for this sitting, as drawn up by the Conference of Presidents at its meeting of Thursday, 30 April 2009, pursuant to Rule 132 of the Rules of Procedure, has been distributed. The following amendments have been proposed:

*Wednesday:*

The GUE/NGL Group has requested that the joint statement on the Leinen, Dehaene, Brok, Guy-Quint and Kaufmann reports on the Treaty of Lisbon be removed from the agenda.

**Mary Lou McDonald**, *on behalf of the GUE/NGL Group.* – Mr President, on behalf of my group I request that this package of reports be struck from the agenda of this session. I think that this House should show some measure of humility and some respect for the democratic process. We all know that Ireland has rejected the Lisbon Treaty and so it is of some wonderment to me that this House persists in debating that matter.

It is not democratically appropriate that this House should set aside the verdict of Ireland or that this House should be used to ratchet up pressure on Ireland in the coming months to adopt a treaty that is clearly not in our interests or in the interests of the European people. I remind Members that Ireland, and Ireland alone, had a democratic vote on this treaty and, in the only place where it was put to a democratic decision, the people rejected it.

I ask at this time, only weeks from the European elections, when the issue of the quality of our democracy is so crucial, that these reports be struck from the agenda and that we turn our attention rather to economic matters and the issue of unemployment – issues that really affect our citizens.

**Daniel Cohn-Bendit**, *on behalf of the Verts/ALE Group.* – (DE) Mr President, I find this line of argument beyond belief. It is not a question of ratifying the Treaty of Lisbon here today. We only want to be prepared for when it is ratified. If it is not, then everything we have decided will be wasted. However, if it is ratified – and this would then take place in October – this Parliament will have to work differently from November onwards. It would be really irresponsible of us not to be prepared. That is why this debate is necessary and why a decision must be taken.

Furthermore, Mrs McDonald, I find it especially unfair to your colleague Mrs Kaufmann, who is unfortunately leaving this Parliament, that you have not even given her the chance, at the end of her time here, to see such an important report adopted in the European Parliament. On behalf of your colleague Mrs Kaufmann, I must disagree with you.

*(Applause)*

*(Parliament rejected the motion.)*

The GUE/NGL Group has requested that a clarification from the Commission on the Green Paper on 'Fisheries' be added to the agenda.

**Pedro Guerreiro**, *on behalf of the GUE/NGL Group.* – (PT) Mr President, we propose including on the agenda a debate on the reform of the common fisheries policy, bearing in mind the presentation by the European Commission on 22 April of the Green Paper on the reform of this important common policy, and also bearing in mind the profound implications for this strategic sector and for fishermen of some of the proposals contained in that Green Paper. For that matter, a proposal to include this issue on the agenda has already been made by this Parliament's Committee on Fisheries, given the political importance and topicality of this debate. This part-session is the last opportunity for the current Parliament to express its opinion on this issue.

**Philippe Morillon**, *chairman of the Committee on Fisheries.* – (FR) Mr President, the problem is quite simply that we will not have the time. It is not practical to start a debate, today, in the very few hours that remain, on a subject that will only be concluded in 2012 or 2013.

We discussed it in committee, during the meeting of 30 April. The opinion of all of my colleagues is that we should wait until the next parliamentary term to start to examine matters.

*(Parliament rejected the motion.)*

*(The order of business was adopted thus amended.)<sup>(1)</sup>*

## 14. One-minute speeches on matters of political importance

**President.** – The next item is the one-minute speeches on matters of political importance.

**Tunne Kelam (PPE-DE).** - Mr President, thank you for your congratulations on the anniversary of the enlargement of the European Union.

At the end of this term, I should like to pay tribute to the activities of Parliament's Baltic Europe Intergroup, which has drawn practical conclusions from the last enlargement, with the Baltic Sea becoming, in fact, the Union's internal sea. It has initiated a new European policy – the Baltic Sea strategy. We can be truly satisfied that, under the creative and skilful leadership of Christopher Beazley, the Baltic Sea strategy has won the support of the Commission and will soon be introduced by the Swedish Presidency. Therefore, I strongly suggest that the activities of this intergroup be continued in the next European Parliament.

Implementation of the Baltic Sea strategy will be a long process that needs parliamentary supervision and, occasionally, reports. I also hope that the activities of the intergroups, as a basic form of parliamentary democracy, will not be restricted in the next European Parliament. Here I am repeating the message delivered by my colleague Mr Bushill-Matthews.

**Glyn Ford (PSE).** - Mr President, I want to urge you to intervene with the Commission on behalf of a group of my constituents. The citizens of Gibraltar, whom I have had the honour of representing formally for five years and informally for two decades before that, are gravely concerned about the cancer clusters that have recently been discovered both in Gibraltar and on the Spanish side of the border.

It is difficult when you are in Gibraltar not to see, and occasionally smell, the smoke and pollution from the refineries adjacent to the border, and the concern is that these are the causes of the cancer clusters.

What we would like to see is a joint investigation on both sides and jointly agreed terms of reference, to try and alleviate the worries and concerns that people on both sides of the border have about the problems of pollution and its consequences.

**Bill Newton Dunn (ALDE).** - Mr President, on behalf of one of my constituents I want to raise the case of a young man with dual British/Greek nationality named John Zafiropoulos. Last year he was convicted by a first-degree Greek court to serve an unconscionably severe sentence in prison in Greece. From the information I have been given, Mr President, I consider that the crucial rules relating to Greek legislation, as well as the provisions for fair trials, have been violated. These fair trial provisions are defined by all of Europe and are the rights of every European citizen.

At the start of this year I wrote to the Greek Minister of Justice in Athens to alert him to my concerns. The response which I received, three months later, was signed by minor Ministry employees and made no reference to the matter which I had raised with the Minister – in other words, the breaking of the rules about fair trials. I am very concerned about this, Mr President, and for this reason I am raising it in Parliament right now, hoping that Athens will both send me a proper reply and deliver a full and fair review of the case of Mr Zafiropoulos.

**Ewa Tomaszewska (UEN).** – (PL) Mr President, I should like to comment on the way in which the European Parliament works. I think that voting on important documents only a few minutes after closing the debate is not wise. Not all the arguments come to light before the sittings of the political groups, and when there is a large number of amendments it is worth considering moving the vote to the next day. This is a matter which should be considered in the next parliamentary term.

Unfortunately, in the meantime two events have occurred which are very significant to me, and I would also like to say something about them. Firstly, Russia has signed an agreement with Abkhazia and Ossetia which secures the presence of Russian troops in these provinces of Georgia. What right, then, do we have to say that the situation in Chechnya is an internal matter? I hope that in the next term Parliament will also comment on this matter.

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<sup>(1)</sup> For additional amendments to the order of business, see Minutes.

Over the last year in Poland a further 114 000 men have lost their jobs. This is not only the effect of the crisis. A series of announcements of plans for group redundancies is reaching employment offices, and this includes over 80 000 Polish shipyard workers who have had their jobs taken away by the European Union, which allows the use of state funds to support other jobs in other countries. This is discrimination.

**Milan Horáček (Verts/ALE).** – (DE) Mr President, last week, Slovenia stepped up its opposition to Croatia's accession. I would like to describe this conflict in clear terms, as this behaviour seems to me to be inappropriate and unworthy of a Member State of the European Union.

Croatia is a candidate country, waiting to join the European Union, and has shown a strong willingness to implement reforms. Although not all of the criteria have been met, the direction being taken is clear. Slovenia must stop behaving in a petty manner, so that a solution may quickly be found. The Treaty of Lisbon and the enlargement process will allow the European Union to develop further, and Croatia will become a Member State!

**Urszula Krupa (IND/DEM).** – (PL) Mr President, out of concern for the future of Europe, I would like today, in Strasbourg in the last session of this parliamentary term, to recall the words of our great countryman, the Holy Father John Paul II, who said, 'There will be no European unity until unity is based on unity of the spirit'. It was Christianity which gave Europe this deepest foundation of unity and strengthened it for centuries, the Christian Gospel with its understanding of mankind and its contribution to the development of history, peoples and nations. This does not mean we are using history for our own ends, for the history of Europe is like a great river, into which flow manifold tributaries and streams, and the diversity of traditions and cultures which have created Europe is its great wealth. The basis of European identity is itself built on Christianity, and the present lack of spiritual unity is mainly the result of the crisis in our awareness of that Christian identity.

**Ashley Mote (NI).** – Mr President, over the last five years I have watched in horror the EU's endless scandalous institutionalised looting of taxpayers' money. I watched in horror an already overcrowded UK deluged by hundreds and thousands of uninvited foreign workers who arrive for their benefit and claim our welfare. I watched in close-up a legislative system that permits anonymous bureaucrats to generate so-called law without any regard for the damage they do to the British economy and its businesses. I watched in close-up

*(Interjection from the floor: 'From Her Majesty's prison!')*

– this expensive, ineffectual talking shop of a parliament, masquerading as an elaborate illusion of accountable democracy, a monstrous deceit on the electors who sent us here.

President Gorbachev was right: the EU is the old Soviet Union dressed in Western clothes. You will one day realise that you cannot be masters in someone else's house.

**President.** – You are speaking in a free Parliament. If the Parliament was not free, you would not even have been able to make that speech.

*(Applause)*

**Ljudmila Novak (PPE-DE).** – (SL) On 2 April, this House adopted a resolution on European conscience and totalitarianism by a large majority. I love my homeland, Slovenia, but it saddens me that this European Parliament resolution has failed to fall on fertile ground in Slovenia and has failed to help us to resolve the painful problems of the past.

On the contrary, there are some people who want to elevate Tito to the status of a hero and name a street in the Slovenian capital after him, despite the fact that he was responsible for mass killings after the war. Since Tito was never brought to justice, many people do not want to admit that these postwar mass killings constitute a crime and that those who ordered them were criminals.

Perhaps it might be appropriate for the European Parliament or you, Mr President, to call on the national parliaments to familiarise themselves with this resolution and then to endorse or supplement it, taking their specific national circumstances into account. In so doing, they would contribute to a clearer and fairer understanding of their national and European histories.

**Richard Corbett (PSE).** - Mr President, we have often deplored the supposed lack of information for the public in the run-up to the European elections. I would submit, after the recent intervention from Mr Mote, that the greater problem is the wilful misinformation, if not downright lies, that are peddled before the public.

In my country at the moment the so-called UK Independence Party – the party that Mr Mote was elected for – has posters across the country claiming that the European Union costs us EUR 400 million per day in membership. That would be EUR 15 billion per year – a figure that is actually five times higher than the factual figure, which you can get from the House of Commons library. Not to be outdone, their donor, Stuart Wheeler, has said it costs GBP 120 billion per year, some 36 times the real figure.

But the truth is that the European budget, anyway costing only EUR 3.3 billion, is a simple 1% of GDP. It is a rather small budget, quite small when compared to the huge economic benefits, which amount to some EUR 2 000 per family in my country – an enormous benefit, well worth the price of membership, well worth the benefit of mentioning.

As you yourself said, Mr President, the price of freedom is the right for some people to give misinformation and to tell lies. We have to pay that price, but we must be vigorous in defending the truth.

*(Applause)*

**Chris Davies (ALDE).** - Mr President, the Director of Operations for UNWRA in Gaza, John Ging, spoke to Members of this Parliament last week and informed us that there were still no materials for reconstruction going into Gaza following the bombing, nothing for business or industry, and that only 60% of the calorific needs of the population were being met by the UN.

Mr President, you have seen the situation for yourself, but it continues, and it is a case of collective punishment applied by Israel against innocent people there.

Just within the last few days we have heard, astonishingly, Israel threatening the European Union and saying that if Commissioner Ferrero-Waldner continues refusing to upgrade the Israel-EU Association Agreement, then European influence will be diminished, undermined, and we will have no role to play in the peace process.

It is time to call a halt. Israel's behaviour is an affront to humanity, to civilisation. It is time for us not simply not to upgrade that agreement, but to suspend that agreement.

**Bernard Wojciechowski (IND/DEM).** – (PL) Mr President, only 13% of Polish citizens will vote in the coming elections to the European Parliament. The lot of the majority will be decided by the minority, and that is a great pity. In the face of global challenges we need the EU, and people can see the value of international solidarity.

However, recently nothing has been done to increase the engagement of society in this area. Debate in Poland is dominated by squabbles between two parties. Public money is senselessly spent on billboard posters showing the flat faces of those who do not know how to get out and meet the people. Prime Minister Tusk is as interested in a real debate on European affairs as Mr Kaczyński was before him.

The last time I spoke in this Chamber I asked if the European Parliament anticipated any spectacular last minute efforts to persuade people to vote. Unfortunately, the debate was presided over by Mr Siwiec, who, it seems, still cannot get used to the idea that democracy without the engagement of the people amounts to nothing.

Therefore I ask once again: is the European Parliament able to do anything at all, so that as an institution it can fulfil expectations in relation to the elections? Thirteen per cent is not only an unlucky number, it is a downright disgrace.

**Avril Doyle (PPE-DE).** - Mr President, I would just like to respond to some of the criticism on 'green' light bulbs that has appeared again in the media, particularly the Eurosceptic media, over this weekend.

Silence lends assent, so I would just like to say that energy-efficient light bulbs are not a danger to the public if properly handled by the consumer, by the householder, and if produced in a proper working environment where the health of the employees and the environment are both respected.

The onus is on European multinationals that have light bulbs manufactured in places like China to ensure that they meet the standards of manufacture we would require if they were manufactured in the European

Union. The end product, the light bulb itself, is perfectly safe when used according to instructions, as safe as any existing light bulbs or batteries, for example, are today. They must be properly disposed of and handled according to the instructions.

I think there is an agenda here – an anti-Europe agenda – in relation to the manufacture of modern, greener, cleaner light bulbs, and I think we have to stand up to those who wish misinformation to be the order of the day on these most important products.

**Pierre Pribetich (PSE).** – (FR) Mr President, President Mitterrand used to say that there were two ways of doing politics: the clerks' way and the cooks' way.

If I mention these two options, it is with the accession process of the countries of the former Yugoslavia and of Albania in mind. Listening to and reading the positions adopted by the Commission and by my fellow Members, I rather feel that it is the profession of clerk that they identify with, with their strict, scrupulous noting of the chapters accomplished, and their adding, where necessary, of additional stages such as bilateral problems between Slovenia and Croatia. I believe that we are making a fundamental mistake.

In the case in point, it would be better to identify with the cook, so as to marry delicately and subtly the ingredients and the cultural diversities, to spice up the dishes, and to benefit from these new countries and all that they offer in terms of enriching our Europe. Europe remains an ideal of respect, tolerance and diversity; it remains a force for peace, especially for the Western Balkans; and it demands a shared vision, a vision of a common destiny.

Nothing would be worse in this period of major economic crisis than for us to withdraw into ourselves and take refuge in a panic-stricken fear of others, of foreigners. Let us remember the approach of Europe's founding fathers and let us apply it to these countries of the Western Balkans.

**Jelko Kacin (ALDE).** – (SL) The enlargement of the European Union has brought growth, peace and stability, as well as making democratisation possible. The most recent enlargement, which took place five years ago, has been a success story, but today we are faced with an economic situation which requires fast and effective action.

We can see and feel the benefits of full integration into the European Union and the enlargement of the euro zone. The bulwark provided by the euro has proved a successful safeguard, not only for economic interests within the European Union, but also for those of Wider Europe.

In the European Union, we are experiencing, not 27 economic crises, but one single one, a very serious and deep crisis. The fastest way for us to solve it will be to team up with other European countries and take coordinated, timely and decisive action. Protectionism is a retrograde step, but populism is a recipe for economic collapse.

Companies which are growing and expanding have a future. Similarly, the future of the European Union lies in its continued enlargement and in creating and building on new possibilities and better opportunities.

**Zita Pleštinová (PPE-DE).** – (SK) 1 May this year marked the 5th anniversary of Slovakia's accession to the EU. Various activities took place on the day, at which we weighed up our activities in the EU. I took part in celebrations on the Slovak-Polish border at the border bridge of Čirč-Leluchov. This symbolic bridge, which was constructed with pre-accession funding from the EU, has united Slovak and Polish communities in the border region and has kick-started cooperation between citizens on both sides of the border.

After Slovakia and Poland joined the Schengen area in December 2007 border controls were eliminated and with them the administrative barriers which had created problems for local people, hindering cooperation. Today we can see many successful projects financed from EU structural funds which are contributing to the long-term sustainable development of these areas.

Mr President, I would like to express my great joy and gratitude for the fact that Slovakia, together with its neighbours, belongs to the EU. I am delighted that, as one of the 14 MEPs representing Slovakia in the European Parliament, I was able to take part in writing this successful chapter in EU history during this election period.

**Marusya Ivanova Lyubcheva (PSE).** – (BG) We have witnessed over recent months a number of incidents involving the hijacking of ships by Somali pirates for ransom. There is a danger that this practice is turning into a well-organised form of maritime terrorism and a lucrative business, with consultancy and law firms

even becoming involved as intermediaries. A happy ending for the hostages in these cases must not be greeted with delight as the ship owners and countries affected pay a high price for it. Piracy is becoming a threat to shipping on a global scale.

This activity has started affecting an ever-increasing number of European citizens too. There are currently 16 Bulgarians who are being held captive on the ship *Malaspina Castle*. Monitoring the negotiations with the pirates cannot be accepted as an adequate policy. We need greater clarity as to what commitments the European Union assumes in such situations. The measures currently being taken by various institutions are important, but are obviously completely inadequate. This is why I am insisting on urgent action at the highest level to free the hostages and bring this activity under control, which is a disgrace in the 21st century.

**Marco Pannella (ALDE).** – (IT) Mr President, ladies and gentlemen, I have been here for 30 years just as you have, but perhaps if we were to take stock of those 30 years we would see that they have failed to live up to the hopes we had in 1985 when in this Parliament we made a qualitative leap from an old and failed Europe of states towards the United States of Europe.

Today we have returned to that inauspicious past – a Europe of states but not a European state – and to our enclosure, and the people around us who hailed us as a great hope, as an opportunity to seize, are in fact people who will soon vote half-heartedly, and will once again condemn the fact that we are representing, through an ill-fated metamorphosis, Mr President, the evil we came out against and deceived ourselves that we had conquered.

**President.** – Thank you very much, Mr Pannella. I remember well that, when we were elected in 1979, you tabled thousands of amendments – back then still in hard copy. In the meantime, however, you have left us once, while I have remained here the whole time. You returned to work in Parliament in Rome.

**Marie Panayotopoulos-Cassiotou (PPE-DE).** – (EL) Mr President, we are celebrating the anniversary of the accession of new countries to the European Union and we were all delighted and moved by your statement. However, I imagine that the present Commissioner, like me and many other fellow Members, is thinking that one of the countries which joined, namely Cyprus, is still occupied in the north and that there are foreign troops there. The European Union is being called on again today to ensure that the Community *acquis* applies to the whole of the island of Cyprus.

**Silvia-Adriana Țicău (PSE).** – (RO) The economic crisis has had a serious impact on the global economy. It is estimated that all Member States will have negative growth rates this year. At a European level there has been an alarming rise in the number of unemployed, with many companies scaling down their activities and laying off staff or making employees technically unemployed.

Europe's citizens are losing their jobs and having difficulties in paying off the loans they have taken out. Their quality of life is also deteriorating. I believe that during this period of economic and financial crisis the EU must invest primarily in people. The well-being of Europe's businesses is down to employees. This is why I believe that we have a duty, first and foremost, to support them.

I think that the Employment Summit which will take place in Prague on 7 May must urgently identify specific solutions to halt the alarming rise in unemployment. I take this opportunity to urge the European Council meeting in June to make it its priority to preserve jobs and find solutions for reducing unemployment in the European Union.

**Thomas Wise (NI).** – Mr President, today is 4 May and this will be my last speech here. However, 30 years ago today Mrs Margaret Thatcher was elected as British Prime Minister and she faced similar Socialist-caused problems to those that we face today: crippling debts, rising unemployment and public unrest.

She understood the solution was small government, individual freedoms and national self-determination. Today the EU imposes big government, increasing central control and the erosion of the nation state. I can also remember her saying 'no', 'no', 'no', words the EU ignores or does not understand.

She went on to make that now famous speech in Bruges that sparked opposition to the project. The EU is a 50-year-old attempted answer to a 200-year-old problem. I maintain if the EU was the answer, it must have been a very silly question. And, as they say in *Star Wars*, may the fourth be with you.

**President.** – If you would allow me this comment, I think she was, and is, a great lady. She was a prime minister who agreed that the legislation concerning the single market could be done by majority voting. So Margaret Thatcher agreed to majority voting in the Council: this was a great decision.



**Csaba Sándor Tabajdi (PSE).** – (HU) Mr President, two weeks ago I was similarly standing here describing the EU's enlargement as a success story where old and new Member States mutually benefited in what is known as a 'win-win situation'. Today, Mr President, I would like to say that while we are in the midst of an economic crisis, the political elite must show an example of moderation.

In Germany restrictions have been imposed on the managers of companies subsidised by the State. US President Obama has taken similar steps, while the Hungarian Government is cutting ministers' salaries by 15%.

Mr President, it would be good if the European Commission could also set an example in this regard. After all, at a time of crisis, it would have a significant impact on the EU's reputation, trustworthiness and prestige if commissioners were to give up part of their hefty severance pay. Even if it is a symbolic gesture, it would give a signal to Europe's citizens that during an economic crisis, EU leaders are also prepared to make sacrifices and are showing solidarity with those on more modest incomes.

**Charles Tannock (PPE-DE).** – Mr President, the Republic of China, better known to us as Taiwan, has finally achieved its just objective of being able to attend the World Health Assembly (WHA) as an observer. The People's Republic of China (PRC) has consistently blocked this move since 1971, when it replaced Taiwan in the United Nations.

As a doctor, I firmly believe that public health issues should never play a part in international relations, and the European Parliament, to its credit, has consistently rejected Beijing's petty policy of blocking Taiwan's attempts to be present at WHA meetings.

I congratulate Taiwanese President Ma on his new successful policy of rapprochement between Beijing and Taipei, and at last the PRC has seen the folly of its bullying ways towards its neighbour.

I too look forward to better relations between the two governments, which is a win-win situation for all parties concerned and in particular now for the good health of the hard-working Taiwanese people.

**Marco Pannella (ALDE).** – (IT) Mr President, ladies and gentlemen, on a personal note, I would simply like to reiterate that contrary to your assertion, and other than this you have been consistent throughout this parliamentary term, for the last 30 years I have always been re-elected to this Parliament. What happened was that within the team spirit of the Radical Party, and having advised the voters in advance, I gave up my seat to other colleagues such as Olivier Dupuis, who served in this House and elsewhere. What you said was therefore incorrect, let me repeat, I was re-elected every time, for 30 years.

Unfortunately, this time, Mr President – although you were in fact here in the days of Otto von Habsburg and Altiero Spinelli, who encouraged our Parliament to make a real stand against the Council's demands by refusing to issue opinions – well, Mr President, this time we have both witnessed this Parliament content to behave like a 'taxi parliament' when faced with the desire to impose non-parliamentary timelines on us – and you did impose them – in relation to the failed Lisbon project.

**President.** – Thank you very much, Mr Pannella. Your words do not contradict what I said. I am satisfied that between 1996 and 1999 you were absent from the European Parliament. You were elected, as you stated, and that does not contradict what I said. I would like to explicitly assure you of my respect for your activities and your work in the European Parliament.

**Neena Gill (PSE).** – Mr President, I rise to express my concern about thousands of innocent civilians who have been turned into refugees in their own homeland by the Taliban in the Swat Valley. We are all familiar with the stories about mistreatment of women by the Taliban. However, the news coming out of the valley in the last month reports closing of barbershops, banning of music and disabling of satellite television receivers. Also robbing of banks and looting of homes or women's jewellery at gunpoint are common occurrences, especially of those that oppose or that stand up to the Taliban. The introduction of Sharia law in the Swat Valley has also resulted in all non-Muslims living in the valley having to pay *jizya*, an ancient form of tax, and I understand that the Sikhs living in the area were kidnapped or threatened until they agreed to pay. As the only Sikh MEP, I have been contacted by numerous constituents who are horrified as to what is happening in the Swat Valley – people who have lived there for 60 years are discriminated against in this way.

This Parliament has a proud history and record of fighting against these forms of violations of human rights and denouncing those that are exercising these intimidatory actions. However, we need to go beyond just statements and ask for concrete action from the Commission to make sure that we have a strategy as to how

we address the Taliban and their rising influence in that region. Taliban are the real threat to all the values that we hold dear, human rights, equality and democracy. I urge you to write to the Commissioner to take some action.

**President.** – Thank you, Mrs Gill. This is also the last time that I will preside over the one-minute speeches. I have always tried to allow as many people to speak as possible. We have often been able to get through the entire list – as we were indeed able to do this evening – for it is one of the privileges of the MEPs to be able to speak, and Monday evenings always provide an opportunity to do so. Therefore, I would also like to thank you sincerely for what you have told us.

That concludes this item.

## 15. Flu epidemic (debate)

**President.** – The next item is a statement by the Commission on the flu epidemic.

**Androulla Vassiliou, Member of the Commission.** – Mr President, thank you for the opportunity to address Parliament, in its final week, on the global spread of the influenza A(H1N1) virus. Let me first brief you on the current situation, and then on what the EU has been doing to manage this crisis.

The latest European Centre for Disease Prevention and Control (ECDC) report states that there are currently 94 confirmed cases of A(H1N1) influenza within the EU and EFTA countries, and 20 probable cases. Most of these people have been to affected areas outside Europe, but not all. Eight human-to-human transmissions have been reported, in one instance even to a health-care worker.

However, we may be glad that none of the patients infected with this virus in the EU has yet died. For over a week we have observed the spread of infections in Mexico, in the USA, in Canada, in EU Member States and in other countries.

In Mexico the impact on public and economic life has grown to a serious scale. We appreciate and acknowledge the enormous efforts the Mexican authorities have made to contain the spread of the virus and to help those suffering from infection.

EU legislation on communicable disease obliges Member States to report on such outbreaks and on the measures they propose to take to mitigate them. The ECDC operates the surveillance networks which follow the number of cases reported. We therefore have a fairly accurate picture across Europe of the developing situation, and this provides the basis for responsibly taking appropriate and effective decisions on how to best make use of our limited resources.

The worldwide picture of infection was severe enough to trigger the WHO to decide on 29 April to upgrade its pandemic alert to phase 5, recognising that human-to-human transmission had taken place in at least two regions. The Commission has worked throughout in close contact and cooperation with the WHO.

My services are working hard to implement the actions to take, as defined by the Community pandemic influenza preparedness plan, in order to address the challenges posed by the current outbreak. The Commission launched its public health operations facility on 24 April and since then my services have been at permanent operational level.

The Commission has called daily meetings of the Communicable Disease Network of Member States and of the EU Health Security Committee since Saturday 25 April. These meetings review the epidemiological situation, discuss and decide on measures and on appropriate legislative acts.

Information for the public on how to prevent infection and to make informed choices about travel has been discussed to ensure a coherent message from all Member States, based on scientific advice by the ECDC, in coordination with the WHO. We decided to extend the surveillance for seasonal flu, which should normally have ended at week 20, in order to identify infections with this new flu virus.

The Commission adopted on 30 April a legally binding case definition on the basis of the EU communicable disease legislation, and this decision was published in the Official Journal on 1 May.

Since medical countermeasures such as antivirals and vaccines are at the heart of our public health response to this threat, I met with the European manufacturers on Wednesday 29 April to learn the latest information on which products are in development, on timelines for new vaccines, and to see if EU intervention can

speed up delivery. With the Member States, we are examining how to best optimise the use of existing stocks of antivirals, using the coordination mechanism of the EU Health Security Committee.

I can also inform Parliament that, following my request to the Czech Presidency, the Health Council met on 30 April and adopted a set of strong conclusions reiterating the need for a coordinated response to the new influenza threat.

The Council recalled the legal obligation on Member States to coordinate their surveillance and response to health threats, and agreed that restricting travel to affected areas was not a justified public health response. However, the Council also agreed that good public information was essential and that travellers should be able to make informed judgements.

The Commission is now examining a road map for the urgent implementation of the points included in the Council conclusions of 30 April. These will include development of vaccines, vaccine strategy, guidance on best use of stockpiles of vaccines and antivirals, protective and preventative measures and public communication and information.

It is clear that we all benefit from our integrated European economy and society. However, that benefit also brings a responsibility. It means that we must work together to take only those measures that are justified by the evidence. This is essential if we are to avoid a health crisis becoming an economic crisis as well. But we should not focus unduly on the negative aspects of these events. Thanks to the preparation led by the Commission after avian influenza a few years ago, the EU has the systems in place to respond collectively and effectively to this threat.

I know that in recent times, as the European elections approach, this House has debated what Europe really means for citizens. In these difficult days, I think we can see some things more clearly. Europe means solidarity in standing together to face this threat. It means cooperation, sharing information, expertise and capacity so that we can act together on the basis of the best available knowledge. It means innovation, with European-funded research helping to bring a vaccine to production as quickly as possible. It means capability, through the European institutions enabling all Member States to respond immediately and effectively to a shared crisis. That is what Europe brings to citizens.

So, yes, the situation is serious but we are better prepared than ever to meet this threat. And having seen the determination of the health ministers of Europe last week – and all 27 were there – I am confident of our ability to respond in the coming weeks.

#### IN THE CHAIR: MR DOS SANTOS

*Vice-President*

**Antonios Trakatellis**, *on behalf of the PPE-DE Group*. – (EL) Mr President, Commissioner, first of all thank you for the information you have given us, which was comprehensive, and I welcome the measures which you have taken. I should like to draw your attention to three basic issues, which you also mentioned and which I consider to be necessary in order for us to address a possible pandemic.

The first is the plans which we have and which have already been processed by the Council, the European Commission and Parliament in connection with avian influenza. We therefore have plans which are, in fact, quite good, despite the fact that certain omissions were criticised by specialist scientists. I should therefore like to ask if these plans have been completed, if the Member States have adopted them and if they are ready to be applied, as the weakest link is very important here, and finally, there is the coordination which you have mentioned; I am delighted to hear that you are ready to undertake it jointly with the Centre for Disease Prevention and Control for this entire influenza story.

The second issue that I want to mention is that of antiviral drugs. An obligation was introduced for the Member States to have an adequate quota. Antiviral drugs are also used for treatment, but of course they are for prevention and there needs to be guidelines here, because they cannot be used randomly; they must be used properly.

The third issue that I should like to raise is that it would be useful if we could find a vaccine for the new influenza. This vaccine will be very important and I believe that today, with the techniques at our disposal, companies could have it ready in three to four months. So I would like you to exert pressure in this direction to ensure that an effort really is made to ensure that we have a new vaccine which, together with the vaccine

for seasonal influenza, which you have rightly extended in order to combat this influenza for all the known scientific reasons, would constitute the best barrier to a possible influenza pandemic.

**Jules Maaten**, *on behalf of the ALDE Group*. – (NL) Mr President, it would seem that the flu pandemic is not as bad as expected. We have been lucky again, just as we were with SARS – yet this is not down to the decision-makers, Mr President. When the flu threat became known during the weekend, they agreed to meet for urgent talks on the Thursday – which strikes me as a redefinition of the word ‘urgent’. Subsequently, nothing much was decided. What happens if there is a real crisis?

What happens in the event of the ‘big one’ – which the World Health Organization is convinced is coming, and may well claim eight to 10 million lives? The ministers met to exchange information, and plans were made. Yet what was the quality of the plans, and of the exchange of information? What measures have been taken, and are these actually coordinated? Is the Commission receiving all the necessary information? I have my doubts. Taking the example of the antiviral drugs: who has, and who does not have, these? Also, are the ministers now prepared, at long last, to create a European emergency stockpile?

Although I am not convinced that France’s proposal to ground all flights to Mexico was a good one, the Council’s decision that everyone should make up their own minds whether to do this is, of course, crazy. With our open borders, what is the point of one country doing it if another does not? The countries should have taken that decision together. The only solution to this is to empower the Commission to take this kind of emergency measures. You, Commissioner, by order of the Council, should be able to take contingency measures within 24 hours on such issues as quarantine, disinfection measures at airports and travel restrictions.

I am not blaming the Commission, then. Commissioner, you and your officials acted correctly. Where was the Council, though? We look around the proverbial dusty Mexican square and there, in the sun, by the little station, sits the Council. We run towards it crying ‘flu, flu’, and the sombrero lifts slowly and the Council replies ‘*mañana mañana*’ and goes back to its siesta. It is hard to do anything with this Council.

**Bart Staes**, *on behalf of the Verts/ALE Group*. – (NL) Mr President, ladies and gentlemen, I should like to join those who have thanked you, Commissioner, for the comprehensive information you have given us. Yet I agree with Mr Trakatellis and Mr Maaten. We did hold an extensive debate in this House in June 2006. We adopted a resolution, on which we worked hard at the time in Parliament’s Committee on the Environment, Public Health and Food Safety. I have looked again at that resolution and I must say that, like Mr Trakatellis, I fear that there are a great many gaps, many weaknesses in the current approach.

Back then, we strongly recommended ensuring an exchange of information and also constructive cooperation between Member States, with a coordinating role for the Commission and in constructive cooperation with the European Centre for Disease Prevention and Control. Anyone who now takes a good look round – and Mr Maaten raised this point very emphatically – will see that there are a great many gaps, that things are going incredibly slowly.

As for the stockpiles of antiviral drugs; you yourself told us a few days ago that stocks were sufficient to cover 16% of the population, when we had said that the figure needed to be 30%. Therefore, things are well below par, not to mention as regards the exchange of information on the nature of the virus. This exchange of information is essential, as vaccines cannot be developed unless the nature of the virus is known.

Scientists I have contacted in recent days say that they have no information, that they cannot get hold of any. Information on the nature of the virus is protected, is kept secret. We have all these research institutes, but we cannot do what we need to do. Something must be done about this. We cannot tolerate this; the threat is really too great.

**Urszula Krupa**, *on behalf of the IND/DEM Group*. – (PL) Mr President, speaking on the subject of the threat posed by the influenza virus I would like to quote some of the opinions of Internet users which have appeared as a response to the panic in the media, which has been given an additional stimulus by comments made by the World Health Organization. It is being said that the cause of the media hysteria is a desire to get rid of stocks of vaccines and the ineffective drug Tamiflu which are taking up shelf space in pharmaceutical warehouses, and an attempt to divert attention from the world crisis.

These reactions of society are not only testimony to a mistrust of authority, but they may also cause people to disregard a real threat of a pandemic in the future. I think it would be wiser to release information about the danger of a possible pandemic of influenza or other disease after somewhat longer observations of cases

of the illness and careful investigation of the virus and its virulence. This would prevent the release of incomplete information, panic and, for example, the slaughter of pigs which is taking place.

**Irena Belohorská (NI).** – (SK) Commissioner, I too would like to thank you for your active and immediate response to the case in question. Because of globalisation and large movements of tourists, travellers and ordinary people today there is no place on earth where this disease could not appear. We can already see this from the cases that have appeared in locations as far away from Mexico as New Zealand, Australia, Europe and Africa.

Despite the subsidiarity of healthcare, infectious diseases know no boundaries and oblige us to take joint action. There can be no solution within the framework of a single country. It is time for solidarity. Slovakia is sufficiently prepared even for an expansion of the influenza infection into a larger epidemic, perhaps because of the earlier avian influenza. We have 700 000 Tamiflu doses in national reserves for 5 million inhabitants and I must say that it is also perhaps on account of the earlier threat of avian influenza that the populace is definitely well-prepared.

In case of an epidemic it is very important to keep the public informed, because where there is no information there will be plenty of disinformation. We can see this from a number of African countries, for example Egypt where the current threat of an influenza epidemic coupled with the idea that the disease was spread by pigs has led to 300 000 – 400 000 pigs being slaughtered. However, we should perhaps show solidarity in this case in other ways, since travel agencies were selling holidays in these destinations but now people are travelling there only in case of need. As we have Eurolat, we should also think about supporting Mexico, where it is believed that this infection will cause GDP to decline by up to 4 – 5% from current levels.

**Cristina Gutiérrez-Cortines (PPE-DE).** – (ES) Mr President, I would like to say that we need to send realistic messages to our citizens, as the Commissioner has tried to do.

Science is much better prepared to face this pandemic than it was four years ago, and this can be seen from the low number of deaths occurring. A great deal more is known about avian and human cases and about the transmission history of this swine influenza. A good deal more is known about the solutions and I believe, therefore, we should trust in research, promote research and demand far more research into vaccines, as Mr Trakatellis also said.

We also know that society is much better prepared than it was a while ago, thanks to the wealth of experience and the organisational efforts made in every country, particularly those in Europe, in an effort to prevent further spread, stockpile medicines and provide citizens with a comprehensive service.

Nevertheless, I am concerned that those citizens may not be receiving enough information. If we look at the press we can see that 90% – or even more – of the material being printed focuses on falling infection rates, but very little is said of cures or how citizens should act.

I believe a great deal more information is needed. I also feel that greater political effort is required with regard to our citizens. To give an example, I am struck by the fact that not a single Member of the Socialist Group in the European Parliament has come to the debate, that all their seats are empty and nobody has asked for the floor in order to justify this situation, when this matter goes beyond individual parties and is of concern to all governments.

I also wish to stress that we can give third countries a helping hand, as the speaker before me said. We need to give our support to all those countries that do not have the conditions, the basis or the capacity to provide assistance to all their citizens.

Therefore, the Europe of solidarity must take action, as must the Europe of communication.

**Françoise Grossetête (PPE-DE).** – (FR) Mr President, I should like to address the commissioner in order to voice my concern. The development of the virus seems to be stabilising in Mexico, in Europe and so on, and, only today, I have heard comments on the radio to the effect that we may have gone too far, that our fellow citizens may have been made to worry unnecessarily.

Well, what concerns me, Commissioner, is not what is happening now, but what is going to happen in October when winter approaches. It is well known that viruses do not like high temperatures. The danger is therefore not there at present, but it will resurface in the winter – in October or November.

Thus, what we should like to know, Commissioner, is what you are doing precisely to ensure that we are fully prepared to tackle this virus that is liable to develop, that may mutate between now and then. We are told that vaccines must be made, but is it certain that those vaccines that are going to be developed will be fit for use in all cases?

Those are all of the questions that I am wondering about. The concern is for next winter. Communication is therefore necessary; it must be explained to our fellow citizens that, whatever happens, it is not a question of letting their guard down, and that they must remain vigilant. Might it be possible, Commissioner, for you to distribute a kind of small guide to help our fellow citizens adopt good habits?

**Paul Rübzig (PPE-DE).** – (DE) Mr President, Commissioner, I would be interested to know whether there are any statistics available on face masks. How many masks are available in Europe, and what quantities could be produced in the event of an outbreak of this kind of disease? The same goes for the medication available, of course. Is there an overview of how much medication is currently stored in Europe and how much could be produced in the event of an outbreak? Do you think that it would be possible to also provide information for doctors in the 23 languages of the European Union, so that information could be provided rapidly and efficiently?

**Adamos Adamou (GUE/NGL).** – (EL) Mr President, Commissioner, thank you first of all for your integrated and detailed presentation. I was the European Parliament rapporteur on preparations by the 27 Member States to deal with avian influenza. At that time, we established together with the Commissioner's office that certain countries were lagging behind others, mainly in terms of stocks of antiviral drugs. I should like to ask you if this still applies today, or not, which would mean that the Member States are better prepared.

I should also like to ask you to do something as regards the popular press and unofficial rumours that are circulating throughout the European Union and causing panic among the citizens. I believe that this is also the responsibility of the Member States and that perhaps your office should issue a recommendation on this.

**Horst Schnellhardt (PPE-DE).** – (DE) Mr President, Commissioner, thank you for being here and for getting here so quickly. If we compare this situation with the case of avian influenza, then – even as an impatient MEP – I am very satisfied with the way in which the European Union, the WHO, and also the Member States themselves, have responded.

Certain Members have said that there is insufficient information. In Germany, I feel that I have been provided with sufficient information on how I should behave. I also do not wish to always make Europe responsible for everything. It is the Member States that are responsible for providing this information. We should also take this opportunity to remind them that they need to fulfil their duty to provide information. I have also heard, on a number of occasions, that there are still certain shortcomings, particularly relating to the stockpiling of vaccines. I would be interested to know whether this is really the case, whether the Member States really do not want to share vaccines and whether they are only storing them for use on their territory, or whether they have agreed to share the vaccines. Then we would be at the same stage as the Commission is now. I would like to express my thanks for this rapid and excellent work. Congratulations!

**President.** – That concludes the 'catch-the-eye' period.

Before giving the floor to the Commissioner, I too should like to thank her for her initial speech. I should also like to thank her in advance for all the information that she will shortly give us on an extremely important and topical issue. This shows that both the European Union and the Member States are tackling this situation in a very positive manner and as close as possible to the people.

**Androulla Vassiliou, Member of the Commission.** – Mr President, I thank Members for their contributions. It is very important for me to hear your views on this very important matter.

First of all, let me assure you that all the structures we have established in order to meet any health threat of this size have been working well and that we have utilised all the tools at our disposal.

As I said in my introductory statement, since 25 April 2009 we have been in close contact on a daily basis with all the Member States, and we have been assured that the directives we have given them have been put in place and are working. However, in view of the experience of the present crisis we are continuously updating our structures and tools, which makes sense because it is only in a real time of crisis that we can see the deficiencies of any structure.

Many speakers mentioned antivirals and the sufficiency of stocks. Unfortunately, as you know, my predecessor discussed this problem of stockpiling on an EU basis with the health ministers but unfortunately those ministers did not want Europe to take over this coordination. We discussed the same problem last year in Angers during the French Presidency and, again, the health ministers insisted that each Member State should be free to decide for itself how many stocks it wanted. We know that there are many differences between the stocks from one state to another, and we are concerned about that.

However, in view of the conclusions reached by the health ministers on 30 April 2009, we decided that the Commission would work closely with the Member States and that if a Member State needs assistance then, in the spirit of solidarity, we shall call for assistance and try to coordinate the needs of the Member States.

As far as the new vaccine is concerned, as I said, I had a meeting with industry and we discussed at length the need both for antivirals and for the new vaccine. We hope that on 11 May 2009 we shall have the seed stocks to give to the industry in order for it to begin production of the new vaccine. I cannot say when it will be ready, as it will depend on the efficacy of the stock, but we estimate that it will take between 8 and 12 weeks.

In response to Ms Grossetête's question, I agree completely with her that we have to remain vigilant in order to meet the needs that may arise, certainly after the summer, and with the creation of the new vaccine I hope that we shall be able to meet the needs of our people.

However, I want to reiterate the fact that the situation is serious but we should not panic. I agree with Mr Adamou that everybody should be as reasonable and realistic as possible in this situation – panicking does not help anybody.

**President.** – The debate is closed.

## **16. Equal treatment between men and women engaged in a self-employed capacity - Pregnant workers (debate)**

**President.** – The next item is the joint debate on:

- the report (A6-0258/2009) by Mrs Lulling, on behalf of the Committee on Women's Rights and Gender Equality, on the proposal for a directive of the European Parliament and of the Council on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Directive 86/613/EEC [COM(2008)0636 – C6-0341/2008 – 2008/0192(COD)];

- the report (A6-0267/2009) by Mrs Estrela, on behalf of the Committee on Women's Rights and Gender Equality, on the proposal for a directive of the European Parliament and of the Council amending Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding [COM(2008)0637 – C6-0340/2008 – 2008/0193(COD)].

**Astrid Lulling, rapporteur.** – (FR) Mr President, 22 years after the vote on a text that was already aimed at ensuring equal treatment between men and women engaged in an activity in a self-employed capacity, including their assisting spouses, the Commission has at last submitted a new proposal to replace the ineffective and toned-down 1986 text, but it has done so using a more solid legal basis.

I should like first to mention a major improvement, namely that the establishment of a company between spouses or recognised life partners shall no longer be prohibited in any Member State. This is an effective way of improving the situation of assisting spouses, those millions of invisible workers employed in agriculture, craft occupations, commerce, SMEs and the liberal professions. Their fate has been a matter of concern for the European Parliament since the 1990s.

Unfortunately, the Commission's proposal is still too weak on one essential point: the social security of assisting spouses and recognised life partners. Experience shows that, where assisting spouses have to take it upon themselves and apply to join a social security scheme, the large majority of them do not do so. None of these people realise that, in the event of divorce, often after more than 20 years of marriage and work in the family business, they will lose all welfare benefits, especially pension rights.

We also wish to retain the old provision concerning the recognition of the work of assisting spouses, in order to provide for compensation, notably in the case of divorce, where the assisting spouse is in a precarious situation after years of work for the family business.

Lastly, as regards maternity protection, we have found a formula that is best suited to the specific circumstances of female self-employed workers and assisting spouses. They must have the right to take maternity leave of the duration of their choice, provided that the total length does not exceed that specified in the Directive on female workers.

Those are the amendments that we feel are most important in order to prevent the publication of another diluted directive, which will not enable us to guarantee equal treatment between men and women in this area.

We have been informed of a dozen amendments tabled by Mr Cocilovo, on behalf of the Group of the Alliance of Liberals and Democrats for Europe, which concern the definition of assisting spouses and life partners. I am a little surprised, since, in the Committee on Women's Rights and Gender Equality, we – and here I refer to all of the groups – had agreed to abide by the definitions contained within the Commission's proposal, which is legally sound and acceptable to everyone, to the effect that assisting spouses should also be understood to mean the life partners of self-employed workers recognised by national law.

This definition is clear; it is precise. Why table amendments that are vague and legally unsound? I call on the ALDE Group to withdraw these amendments. I assume that there is a misunderstanding between the shadow rapporteur of that group and Mr Cocilovo. I am working on this point at present.

The Committee on Women's Rights and Gender Equality has unfortunately adopted another report containing 74 amendments, the majority of which have no direct link with the initial objective presented in the Commission's proposal, which was to strengthen the foundation of maternity protection by improving the health and safety of pregnant workers and workers who have recently given birth or are breastfeeding.

I should like to make it clear that this directive does not concern female self-employed workers, female assisting spouses or the partners of self-employed workers. Their specific situation will be examined within the framework of the new directive on equal treatment between men and women engaged in an activity in a self-employed capacity, which will be the subject of a report.

*(The President cut off the speaker)*

**Edite Estrela**, rapporteur. – (PT) Mr President, Commissioner, ladies and gentlemen, firstly I should like to thank the following people: the shadow rapporteurs; the draftsmen of the opinions of the Committee on Employment and Social Affairs and the Committee on Legal Affairs; the secretariats of the Committee on Women's Rights and Gender Equality and the Socialist Group in the European Parliament; the social partners; the NGOs; the experts who took part in the public hearings held in Brussels and Lisbon; the Commission and Council representatives; and my assistants. I thank everyone for their support and suggestions.

The proposals in my report are therefore the result of a highly participatory process and of many working meetings with all those interested in equipping the European Union with a directive on maternity leave appropriate to our times. The main aims of my proposed amendments are: firstly, to reinforce the rights of female workers during pregnancy, after birth and while breastfeeding; secondly, to promote the reconciliation of professional, family and private life; and thirdly, to help Europeans who want to have children to do so, thereby increasing the birth rate.

I therefore propose extending the protection against dismissal to 12 months, removing the obligation to perform night work and overtime if the woman so wishes, and reducing the working day by two hours for the purpose of breastfeeding, without the loss of any privileges. However, the most innovative proposal in relation to the European Commission's proposal concerns paternity leave. Community law must enshrine the principle of shared leave to encourage a fairer distribution of private and family responsibilities between men and women and to thus improve the quality of life and well-being of children. Fathers must be involved in family responsibilities, from the birth or adoption of a child. We must also combat the economic, social and cultural prejudices associated with the right to paternity leave, and change mentalities.

Whereas, for example, in Sweden, a man who does not share the parental leave is regarded by society as a poor father, in the countries of southern Europe, the reverse is true: fathers are coerced by employers and work colleagues into not taking the leave to which they are legally entitled. I therefore propose that two weeks' paternity leave should be mandatory, non-transferable and paid at 100%, without the loss of any



professional rights. It has been proven that the sharing of family responsibilities between men and women is the first step towards the essential reconciliation of family and professional life. While having the same right as men to a professional career, women cannot, however, do the same work as men outside the home and triple the amount within the home.

Family life is one of the reasons why there are more unemployed women than men. Furthermore, a common question in job interviews is whether applicants intend to marry or have children. Women's personal lives are scrutinised and they end up losing out if they exhibit the natural desire to be mothers. Motherhood cannot be viewed as a problem for employers or for the economy. On the contrary, it is a service provided to society, as it allows us to tackle the low birth rate and ageing population and, at the same time, guarantee the sustainability of the social security system.

It is therefore unacceptable for women to be penalised because they are mothers. However, the truth is that they frequently cannot make progress in their careers, they do not receive the usual productivity bonuses or share of the profits, and they have to accept more menial and less professionally gratifying work. We need to change this situation.

**Vladimír Špidla**, *Member of the Commission*. – (CS) Mr President, honourable Members, I would like to start by thanking Mrs Estrela and Mrs Lulling for their report. I appreciate their efforts and the support the European Parliament has given to the Commission proposals within the package of measures adopted last autumn for harmonising working and family life.

As you know, the task of harmonising working, family, and private life is one of the priorities of the Commission's gender equality plan. The process of promoting policies focused on these issues is of key importance for enhancing women's participation in the labour market and for coping with problems connected with the changing forms of the family, the ageing population, and support for the equal treatment of men and women. Seen in this context, I think it is necessary to improve legislation in the sphere of maternity and parental leave. In a similar vein, it is crucial to improve the status of women engaged in a self-employed capacity.

I am delighted with the progress made on both of the legislative proposals tabled by the Commission. I am also pleased with the success of negotiations between the social partners on parental leave. I hope that before the summer holiday I will be able to submit a formal motion to make their agreement binding. I would now like to mention in brief the Commission's objectives for the amendment to the maternity leave directive, which are: to promote high levels of safety and health protection for mothers, to encourage women to have as many children as they want, and to support women's participation in the labour market. In this respect, the Commission's proposal is aimed primarily at extending maternity leave from 14 to 18 weeks, increasing maternity benefits to enable women to interrupt their jobs and look after their children while feeling financially secure, and providing the greater flexibility that should be given to women in terms of arranging their maternity leave and the work conditions for their return to employment. I am aware of the difficulties in attaining the right balance between enhancing protection and making these additional measures economically acceptable to employers and to the Member States.

Mr President, honourable Members, the Commission welcomes the numerous amendments made by Parliament, which will help to strengthen or clarify this draft. These include: Amendment 11 on demographic trends, Amendment 25 stressing the need for better harmonisation between working and family life, Amendment 50 on support for Member States in promoting part-time work, Amendment 35 on optional maternity leave before birth, Amendment 53 clarifying that women on maternity leave may have their salaries raised, and Amendment 56 on workers' retirement rights. The Commission is also prepared to accept a number of other amendments, either in principle or in their entirety.

I also welcome the amendment that would make it possible, under certain conditions, to count parental leave as maternity leave. Such a provision would take into consideration the differences between the Member States, and would accommodate the requirements of those Member States with advanced systems of leave for family reasons, such as the Nordic countries. Nevertheless, I would like to avoid a situation where the revision of Directive 92/85/EEC is used as an opportunity to introduce topics that should be addressed in another context. In my opinion, this would undermine the aims of the Commission's proposal, which include, first and foremost, enhanced protection for mothers and, secondly, support for women's participation in the labour market.

Seen in this light – even though I fully support your proposal for the introduction of paternity leave – I do not think that the current directive, focused as it is on the protection of mothers, is a suitable instrument for

such a goal. The Commission therefore rejects the amendments relating to paternity leave. In spite of that, the Commission thinks it is right to address this issue in the future, with a view to reaching final agreement among the European social partners on parental leave.

I was also pleased to note Parliament's request to introduce leave in the case of child adoption (Amendment 44). The idea is sound, but even in this case I believe that a revision of Directive 92/85/EEC is not the right way to go about it. We have to realise that the situation of a mother who adopts a child is different. However, just as in the case of paternity leave, the Commission believes it is right to address that question later on, particularly in connection with parental leave.

Mr President, honourable Members, the Commission welcomes your proposal for 20 weeks of maternity leave. This is consistent with the logic of the Commission's own proposal, which provides for maternity leave in excess of 18 weeks to be granted in some instances. However, it is vital to show the impact of this extension on the other provisions of the Commission's proposal. As for breast-feeding, women with maternity leave lasting 18 weeks would have sufficient time to breast-feed their children, without having to adjust their working hours. Under these circumstances, I would not support the idea of introducing a legal obligation concerning adjustment of working hours for breast-feeding women. Instead I would rather call on the Member States to consider the possibility of taking other measures enabling women to keep on breast-feeding even after their 18 weeks of maternity leave. Similarly, on maternity benefits, the Commission's proposal introduces the principle of paying salaries in full. In actual fact, many Member States have already been applying this principle. The Commission's proposal also allows Member States to set maximum levels for such benefits. The Commission is not in favour of the proposal tabled by Parliament for salaries to be paid in full for a specific period of time and maximum amounts to be introduced for the rest of maternity leave, because this would discourage mothers from drawing their maternity leave in full. That is why the Commission does not recommend that these amendments be approved.

The Commission also believes that some amendments either water down the effects of the proposal, introduce too many details or go beyond the scope of the powers of this directive. This applies, for instance, to Amendment 30 concerning the right to refuse night work. I believe that pregnant or breast-feeding women should have the possibility any time of refusing night work without having to state their reasons for doing so. The same applies to the issue of sanctions. In this respect, the Commission holds the view that it is important to specify that compensation should not be restricted by any upper limit laid down at the national level. This significant principle has been established by the European Court of Justice. Therefore, the Commission cannot accept Amendment 68.

Mr President, honourable Members, I would now like to deal in greater detail with the report by Mrs Lulling. First of all, let me underline the great importance the Commission attaches to this proposal. In fact, it is vital to improve the situation regarding equal treatment between men and women engaged in a self-employed capacity, since women are underrepresented in this area, accounting for only one in three business persons in the European Union. It is likewise essential to improve the status of assisting spouses. We cannot agree with the current situation, where people regularly involved in the activities of a family business have no social protection.

I am pleased to see that the opinions of Parliament and the Commission coincide to a great extent. That is why the Commission is in a position to accept (either in their entirety or in principle) a substantial majority of the amendments presented by the rapporteur: primarily Amendment 15 on maternity leave for women engaged in a self-employed capacity and Amendment 18, which is aimed at reintroducing Article 7 of Directive 86/613/EEC relating to recognition of the work of assisting spouses. This also involves a large number of amendments which the Commission can accept in their entirety or in principle. In most cases, these amendments clarify the Commission's proposal and therefore aim for greater legal certainty.

I would, nevertheless, like to point out that the Commission cannot accept Amendment 14 concerning social protection for assisting spouses. It is clear to me that this is a significant aspect for the European Parliament. However, this particular amendment poses some specific problems. First and foremost, the voluntary approach introduced in the Commission's proposal represents a substantial improvement compared to the current status. The proposal of the Commission stipulates – and this is a statutory obligation laid down for the Member States – that assisting spouses should have, at their request, the same level of protection as that enjoyed by persons engaged in a self-employed capacity. The mandatory inclusion of assisting spouses in the system of social protection would also have significant financial impacts. At this time of economic crisis, we should be trying to ensure that businesses, especially small family businesses, do not incur further expenses

against their will. Therefore, I think that assisting spouses should be given the option to choose. Furthermore, this amendment would greatly complicate the possibility of reaching agreement with the Council.

In conclusion, I would like to say that the Commission's position regarding the various amendments to both legislative proposals has been given to Parliament in writing, and will be attached to the minutes of the plenary session.

**Joel Hasse Ferreira**, *deputising for the draftsman of the opinion of the Committee on Employment and Social Affairs*. – (PT) Mrs Madeira has tried to ensure real equality for pregnant workers and any women of childbearing age in terms of accessing and remaining in the labour market. Ladies and gentlemen, women are frequently faced with a choice between professional life and family life, particularly on the issue of motherhood, which ends up preventing them from feeling like complete individuals in terms of their physical and mental health. We must therefore adopt an approach which is not prejudicial to the rights and protection of women, in line with the European social model. We should also like to include parental leave in this framework, which, as we have seen, was not the choice of the Commission.

Commissioner, anyone who spends 18 weeks out of the workplace needs special training on resuming their work in order to maintain their legitimate career prospects and prevent them from suffering a double penalty in their professional life. We therefore need to ensure the following: their job must be protected for 12 months so that they can reorganise their domestic life on returning to work, training and new routines. The increase from six to twelve months is therefore simply good sense. It is vital that each Member State legislates on the rights of self-employed women, and this is therefore a clear political signal to which we should like the Commission to react.

Mr President, Commissioner, ladies and gentlemen, this adjustment in working hours after birth should not be the exclusive right of women, as the spouse, partner or parent should also be able to request this from their employer. This proposal is very important and must be monitored by regulators in the Member States. Finally, ladies and gentlemen, we believe that this approach is more consistent with the European social model to which we aspire. This issue is not just about women; it is also about society.

**Luigi Cocilovo**, *draftsman of the opinion of the Committee on Employment and Social Affairs*. – (IT) Mr President, ladies and gentlemen, I would like to say from the outset, to save time, that I agree in essence with the illustration given by Mrs Lulling, who served as rapporteur for the main committee on this report.

The subject is 'equal treatment between men and women engaged in an activity in a self-employed capacity'. There are several amendments that were adopted by the Committee on Employment and Social Affairs and which I tabled again on behalf of my group. Some, I think, can be withdrawn since they actually overlap with the texts already adopted by the main committee.

We too will insist on Amendment 14, concerning Article 6, because we believe that to make optional for the assisting spouse or life partner that which is, however, obligatory for the main worker is to lower protection and to open the door to conditions that undermine the Commission's aims.

For the rest, I think we will also come to an agreement with Mrs Lulling to push for reference to be made to 'assisting life partners' as well as spouses in every passage of the Commission text, rather than leaving it open to interpretation. This is frankly a secondary issue, however, to the main aim shared by everyone.

**Lidia Joanna Geringer de Oedenberg**, *draftsman of the opinion of the Committee on Legal Affairs*. – (PL) Mr President, the purpose of the Council directive from 1986 was to apply the principle of equal treatment of women and men engaged in a self-employed capacity, to give assisting spouses a clearly defined professional status and to establish their rights and minimum guarantees. The present motion of the Commission is still not ambitious enough, and contains little in the way of binding solutions.

The proposal to ensure that women who are self-employed have the possibility of taking up to 14 weeks of maternity leave, including two weeks of mandatory leave, is deserving of support, as is the proposal to give them the right to benefit from social security cover for assisting spouses on the same basis as self-employed workers.

On the other hand, the proposal to release self-employed people, and in particular assisting spouses, from the obligation to be members of social insurance schemes is disturbing. This solution will not contribute to the equal treatment of women and men, and therefore it is advisable that the competent body in matters of equal rights covered by the directives should oversee the correct application of this directive.

Finally, I would like to congratulate both authors on a superbly prepared document.

**Maria Petre**, *on behalf of the PPE-DE Group.* – (RO) I would first of all like to thank the rapporteur, Mrs Estrela, for her report and the effort she has put into this.

I believe that improving Directive 92/85 provides a solution to a genuine, serious problem which Europe is facing. I am referring to both the ageing population and the population decline which we have been talking about for so long. From our point of view in the Group of the European People's Party (Christian Democrats) and European Democrats, having the family as a fundamental value certainly entitles us to devise a political measure focusing on this issue, which is also why we welcome what is happening with regard to the directive on maternity and to maternal health.

I was pleased to hear in this House Commissioner Špidla supporting the extension of the maternity period, as was approved by our Committee on Women's Rights and Gender Equality. I do not think that this is related to equal access to the labour market for women. We are also all aware that the World Health Organization and UNICEF support the fact, corroborated with scientific arguments, that women who have given birth actually need 24 weeks to completely recover their working capacity.

I believe that we must not make young women choose between a home life and a career. Indeed, our discussion today about amending the directive will actually provide a basis for achieving this work-life balance. I welcome the introduction of the notion of paternity leave, even though it is not necessary at the moment, because it allows us at least to send a signal to young families which are expecting something like this from us, the European Parliament.

I believe that having both parents at home is vital for babies during their first weeks of life. I also think that motherhood and fatherhood are a fact of life, which is why I agree with treating this matter in the way it deserves and not like a problem or possibly an inconvenience. As a Romanian MEP and mother of two children born, unfortunately, under the Communist regime which my country lived through, I can assure you that I have additional reasons for supporting the measures proposed.

**Lissy Gröner**, *on behalf of the PSE Group.* – (DE) Mr President, the Committee on Women's Rights and Gender Equality has provided a good contribution here towards ensuring a social Europe, and I would like to sincerely thank both of the rapporteurs, Mrs Estrela and Mrs Lulling.

For us in the Socialist Group in the European Parliament, two aspects of this matter are very important, as I would like to briefly point out. On the one hand, it is necessary to include fathers in the framework strategy to improve the balance between professional and family life. We do not, as the Commission states, want eighteen weeks of maternity leave, as this is already in place in almost all European countries, with the exception of Germany and Malta. We want to go one step further, namely to introduce two weeks of paternity leave.

For us, it is also important for both directives to offer the same rights for same sex couples. This is important in the case of the directive on assisting spouses and the assisting member of unmarried couples. I would also like to point out that these protection systems must be obligatory, otherwise they become arbitrary.

I would, once again, like to return to the argument put forward by the employers, namely that this directive on extended maternity leave would be too much for companies to cope with in a time of crisis. That simply cannot be the case. In Germany, we have a system where, in the case of a pay-as-you-go scheme, the costs are refunded - even up to a hundred percent! That is why I am also asking the Conservative group to show understanding and to follow us in improving legal protection for working mothers.

Before the European elections, we want to send people, especially fathers and mothers, a clear and definite signal that, in times of crisis, the concept of a social Europe will not be abandoned, and clearly state that we aim to invest in people, in future generations and in demographic change. I would also like to ask Commissioner Špidla, in connection with the inclusion of fathers in the legislation, to think again and, together with us, to fight in the Council for progress with regard to maternity leave and ensuring a better balance between work and family life.

**Claire Gibault**, *on behalf of the ALDE Group.* – (FR) Mr President, Commissioner, ladies and gentlemen, I would like to congratulate and thank Mrs Estrela for her report and the quality of it.

It is time for the Commission and Parliament to take up this issue. Measures are urgently needed to protect pregnant women and women who have recently given birth or are breastfeeding, and it is essential to ensure

that their rights are respected. From this point of view, the report is well balanced: it deals with the regulation of night work; protection against dismissal; rights linked to social protection and employment contracts and the defence of such rights, in particular those concerning maternity pay.

However, I do not agree with Mrs Estrela's proposals on obligatory paternal leave and the length of maternity leave. It cannot be denied that motherhood is still a hindrance to young women's careers. The very important part on mothers returning to work must therefore not be neglected.

Maternity leave must not penalise women. Maternity leave that is too long will, inevitably, result in fewer chances for women to return to good conditions in the employment market. This is why the Commission's proposal to set maternity leave at 18 weeks, and accompany it with realistic measures, is an excellent one, because it takes the situation of both workers and employers into account.

If we want to fight discrimination and defend women's rights, we need to ensure that women must not resign themselves to saying goodbye to their careers, that doing so remains an active lifestyle choice. We need to expose the hypocrisy of the idea of free choice, which is often a direct result of inequalities in the salaries of men and women and insufficient childcare facilities.

I do not think that paternity leave has a place in this directive. However, if it must remain part of it, it must be more flexible. The vote in committee for the compromise of reducing paternity leave from four to two weeks is a step forward; but why should paternity leave be obligatory?

I agree that fathers should have a role, but it should not become a poisoned chalice and, if we want the presence of both the father and the mother to benefit them and their baby, we need to preserve the notion of choice. Reconciling professional and family life is at the heart of the European social project and such an important cultural change should be freely agreed upon before it is approved.

**Ewa Tomaszewska**, *on behalf of the UEN Group.* – (PL) Mr President, this motion, which aims to extend the minimum length of maternity leave and which contains other regulations which will make it easier to combine family and work is a step in the right direction. We support the motion, although we do not think it goes far enough.

At a time of drastic demographic collapse in Europe, every form of support for the family is valuable. The contact which a small child, and especially a baby, has with its mother fosters the proper emotional development of the child. Breastfeeding a child is very important for its immunity and biological health. However, the proposed change is still not sufficient. In accordance with the principle of subsidiarity individual Member States should always be looking for better solutions.

I would also like to draw attention to two problems. Women's entitlement to a retirement pension usually either does not take into account periods spent caring for children, or does so insufficiently. Women and mothers who are in families where there are many children suffer discrimination both in the job market and from the pension system. We should aim to introduce remuneration for caring for children.

**Raül Romeva i Rueda**, *on behalf of the Verts/ALE Group.* – (ES) Mr President, I am pleased to see that issues relating to equality between men and women and, in particular, to non-discrimination between the sexes are gradually becoming more prominent in social and political spheres. Nevertheless, the debates we have had in the last few weeks in the context of the reform of these two directives show that there is still a great deal to be done in the way of discussing and convincing.

I am with those who maintain that true equality will only be achieved when we succeed in establishing adequate frameworks so that women are not discriminated against in public life or at work; also, however, when those frameworks enable and, indeed, oblige men to assume their responsibilities in the private and domestic fields.

With that in mind, I wish to stress that Europe-wide maternity leave should be at least 24 weeks, as the World Health Organization and the European Women's Lobby are, in fact, demanding; I also insist on the need for an urgent move towards joint, equal responsibility for couples, so as to share the load, as well as equal responsibility for bringing up children.

**Věra Flasarová**, *on behalf of the GUE/NGL group.* – (CS) Ladies and gentlemen, Mrs Lulling has undertaken a difficult but necessary task. In most EU Member States, carers and helpers, especially wives or husbands, have no legal status and their work is not recognised, in spite of the fact that their activities account for more than 11% of self-employed work in the European Union. An accompanying feature is the absence of social

insurance for these people. If this remains a matter of free choice, many people choose not to pay insurance because of the costs involved. The result is frequently a situation where people who cooperate in this way find themselves alone, due to their partner's departure or death, for example, and without any means of support or any entitlement to social benefits or a pension. That is why I am endorsing the proposal to make social insurance in the countries of the European Union mandatory. I would like to add, however, that insurance should be a motivating factor for these people, and it should therefore be affordable.

**Irena Belohorská (NI).** – (SK) I congratulate Mrs Lulling and Mrs Estrela on the reports they have submitted and I firmly believe that these reports will help many families, banishing discrimination in the sphere of commerce and in the area of maternity support. Many women assist their husbands in business and current social security arrangements do not provide them with any protection. I support an arrangement whereby wives or husbands who help out in family firms receive protection in the same way as independently employed persons.

Of course this must not involve fictional work but work which is part of a company's routine workload. The remuneration provided for this assistance must also be proportionate to the work carried out. I agree with the rapporteur that, in contrast to the Commission, we have not supported registration on a voluntary basis but instead the right of an assisting spouse to be registered in the same social security systems as independently employed persons, thereby covering the costs of sickness, old age and invalidity.

The proposed directive is very important for eliminating discrimination against women who help out in their husbands' businesses and who receive no maternity or old age support, which makes them dependent or highly vulnerable people. These situations often arise particularly in the new Member States, where the business activities of self-employed people still lack proper planning.

**Edit Bauer (PPE-DE).** – (HU) The family is the fundamental value of the European People's Party (Christian Democrats) and European Democrats. We are all obviously aware of the current demographic crisis. Although there is less mention of it nowadays, its consequences are at least as serious as those of the economic crisis. Against this background, the occupational safety regulations relating to mothers deserve particular attention. Nevertheless, the proposed directive divides European public opinion, as it does Parliament.

It is not a good idea to extend the occupational safety regulations which apply exclusively to pregnant women and nursing mothers to fathers as their occupational safety arrangements do not require any change as a result of them becoming fathers. If we agree to extend the regulation's legal basis to cover Article 137 of the EC Treaty and we extend the scope of the regulation to cover parental leave, two regulations would apply concerning parental leave, including paternity leave as well. If we asked the social partners to come to an agreement on Directive 96/34/EC on parental leave, which was also mentioned by Commissioner Špidla, why are we trying to prejudge what kind of agreement will be reached?

In some countries the discrepancy between jurisdiction and practice is so great that the task of amending the directive really requires a huge amount of attention. It would not be appropriate if Parliament waded into the discussion like a bull in a china shop. A poorly drafted protection regulation may, in some circumstances, go against employing young women since the cost of employing them would become more expensive than employing their male colleagues.

**Anne Van Lancker (PSE).** – (NL) Mr President, I should like to congratulate Mrs Estrela warmly on her splendid work. Parliament's proposal to extend maternity leave to 20 weeks on full pay, six of them after the birth, has by no means been plucked out of the air. Many countries already provide for more than 18 weeks for mothers, on 80-100% of their pay. Therefore, I fail to understand why my fellow Members from the Group of the European People's Party (Christian Democrats) and European Democrats wish to reduce Europe's ambitions to a meagre 16 weeks.

I would say to those who consider the cost too high that women must not lose out on account of becoming mothers. It is often the case nowadays that women have to resort to other forms of parental leave, but not all women have a right to these. In addition, these are much lower paid, and thus are not feasible for women who are less well-off.

Ladies and gentlemen, it is also important to us that paternity leave and co-maternity leave be regulated here, as this directive also concerns equal treatment between women and men. Fair sharing of childcare responsibilities means that fathers, too, must be granted leave upon the birth of their child. To be frank, ladies and gentlemen, two weeks is a very modest start, but one that is important in those countries where fathers are yet to be given any place in a young family.

Ladies and gentlemen, the social partners failed to reach an agreement on paternity leave or adoption leave, and so we, the Socialist Group in the European Parliament, consider it our duty to regulate the area in this directive for the benefit of fathers and adoptive parents. I am sure that the majority in this House will support us in this.

**Siiri Oviir (ALDE).** - (ET) Mr President, Commissioner, ladies and gentlemen. Better reconciliation of work with family and private life is one of the six priority areas of activity identified in the guidelines on equality between women and men. After all, we are well aware that the European Union faces demographic problems such as a low birth rate and an increasingly high proportion of elderly people. Yet the best solution would definitely not be to establish financial concessions for employers if they encourage their female employees to have children.

I am unable to support the proposed Amendment 22, especially the second part of it. Motherhood and fatherhood are fundamental rights that are very important to ensure balance in society. It is also very important that both parents participate in a child's life from the very first months. I cannot, however, agree with the suggestion to implement compulsory paternity leave. By doing so, we would do a disservice to the newborn child's family – fathers usually earn more. The regulation of paternity leave must be flexible – that is the only way we can achieve a positive result. Finally, I would like to thank Mrs Estrela for the work she has done with such enthusiasm.

**Marie Panayotopoulos-Cassiotou (PPE-DE).** - (EL) Mr President, the report by Mrs Lulling on self-employed workers is a full report and she personally has worked so much on this issue that I do not think that we need say any more about her. However, we do need to draw the Members' attention to the report by Mrs Estrela who, of course, is well disposed to protect women but who has, perhaps, missed the point, because here in Parliament we consider that we are minor gods and we think that, with our decisions, we can make our dreams come true. The problem is not for us to do what we want, but to do what is feasible, what is truly in women's interests.

We have a directive which relates solely to women, because only they give birth, only they get pregnant and only they can nurse. We therefore want in this directive to set out rights for men, while there is the other social partners' directive on parental leave which can cover men in the manner decided by the social partners. So we should not 'sell' women's rights in a period which is unique in their life, by giving others the right to benefit from everything that women go through physically and we should not punish women by forcing them to stay away from work due to excessive leave, which is not in the interest of any employers, who will wait until they are forty years of age before they recruit them.

**Gabriela Crețu (PSE).** - (RO) Some subjects are important to the European Union's institutions, others are less important. The important issues are discussed at events with maximum participation and publicity, or at least solutions are sought during them and answers offered. Unfortunately, we have to say that women's rights have not featured among these issues.

The attitude that resolving gender issues is of secondary importance is shared among the Conservatives in Parliament, the Commission and Member States, but not to an equal extent. As this is the final plenary debate of this parliamentary term on this subject, we must acknowledge that Parliament has definitely been the European institution which has taken most seriously the rights and socio-economic status of women, including pregnant and self-employed women.

We have tried through legislation and own-initiative reports to put into practice some of the principles already enshrined in treaties so that we can put 'invisible' groups on the public agenda. Admittedly, this has happened most often in the small hours of the night or when we are coming directly from the airport. However, there is a lack of political will. This is very apparent when it comes to implementing and enforcing the necessary and much-awaited legislation which we draft. Delays and inadequate enforcement are common in Member States.

We urge the European Commission and Member States not to use the crisis as an excuse to ignore other crucial issues, issues linked to the application of European legislation in this area, whether current or older. Sacrificing women and their rights on the altar of some alleged economic interests leads to social decline. I do not know whether women are the future of men, but one thing for sure is that the future of our society depends on women and their health.

**Ria Oomen-Ruijten (PPE-DE).** - (NL) Mr President, research by the World Health Organization indicates that 16 weeks' maternity and childbirth leave is too short, and even recommends 24 weeks. Like the

International Labour Organization (ILO), the Commission has now proposed 18 weeks. Parliament has decided on 20 weeks, although there is still a difference between our group and the Socialist Group in the European Parliament: we are in favour of 16 weeks plus four and the PSE Group of 20 weeks. In the end, I can go along with 20 weeks.

My second point concerns parental, paternity and adoption leave. I am strongly in favour of fathers, too, being involved in the first few weeks after the birth of a child, but all of us here know, and I should like to thank Commissioner Špidla for his clarity, that this cannot be regulated in the present directive. After all, this directive concerns health and safety and not parental leave. These are different arrangements, which are to be worked out with the social partners.

My third point concerns maternity and childbirth leave for self-employed women and assisting spouses. I think that Mrs Lulling has done an excellent job on this.

**Marusya Ivanova Lyubcheva (PSE).** – (BG) Examining the amendments to the directive on motherhood at this particular time makes a great deal of sense, as it allows us not only to demonstrate responsibility for resolving certain problems affecting society, but also focus this responsibility on Europe's future. With Mrs Estrela's report we are incorporating a new philosophy into the care we provide for mothers, pregnant women, nursing mothers, as well as for parents in general. It is particularly important that fathers are included in bringing up children. This is what will strengthen the role of the family. Let us use this to restore the balance which is also important in raising children from their early years. This will supplement all our other decisions relating to the European Union's anti-discrimination policies.

It is crucially important for us to provide pregnant women with security and safety, both in the family and at work. We must also give equal access to jobs, provide flexible working hours and specific healthcare services, as well as fully enforce the legislation. It is unacceptable to refuse to appoint a woman to a job who is pregnant and is due to go on maternity leave. We must ensure that women on maternity leave can also automatically enjoy any changes introduced while they are on leave.

My country, Bulgaria, offers extremely favourable maternity legislation, with a long period of paid maternity leave and other options for women to choose from. The dual combination of the right and the freedom of choice, as well as family obligations and a career is a good practice which may be recommended to all Member States. In fact, this is part of the integrated policy on equal treatment for women and men.

**Christa Klauß (PPE-DE).** – (DE) Mr President, the Member States are clearly responsible for legislation in the field of healthcare. Europe has laid down minimum standards for maternity leave. We have varied legislation in the Member States, which cannot be compared. In certain countries, maternity leave is paid out of tax revenue. In others, as is the case in Germany, it is paid through health insurance companies, and enterprises bear the main share of the costs. Both the length of, and the financial support for, maternity leave vary. In all cases, however, the mother is assured protection in case of illness, even after the maternity leave has ended.

You are confusing two issues here: maternity leave and parental leave are two different things – as you pointed out, Commissioner Špidla. What I would like to know is whether, in Germany, for example, the combined total of maternity leave and parental leave would meet the requirements of the new directive? The extension of maternity leave, which focuses on the health of the mother, is not always an advantage for women. Companies will employ fewer women, as men do not take maternity leave.

Moreover, stricter legal protection against dismissal does not help in the search for a new job. We also have to ensure that women are able to find employment and work on equal terms. In this respect, companies are called on to help to ensure a family-friendly working environment.

**Ljudmila Novak (PPE-DE).** – (SL) In my neck of the woods, we have a saying that children are our greatest treasure, because they are our future. Unfortunately, it seems that we Europeans are showing no interest in that treasure and this is why European culture and identity are coming under threat.

I welcome the Estrela report, because it seeks to ensure the best possible healthcare for pregnant women and mothers. At the same time, this will mean better health for children and fewer problems as they are growing up. In some of the less wealthy countries of the European Union, women have much longer maternity leave than those in the wealthier, Western nations. I am of the opinion that the European Parliament should support the best possible solutions for mothers and children alike. Savings made at the expense of children are the worst kind of investment in the future.



We women want to be mothers, but at the same time, of course, we also have to attend to our own social security in an uncertain world and at a time when one cannot rely on marriages being secure. Combining family and professional life should be our foremost priority in resolving Europe's demographic problems.

**Ilda Figueiredo (GUE/NGL).** – (PT) Mr President, I want to talk about Mrs Estrela's report on improvements in the safety and health at work of pregnant workers. This is a small step forward in the protection of motherhood and fatherhood, which are fundamental rights and values of our society.

On behalf of my group, the Confederal Group of the European United Left/Nordic Green Left, I called for more progress in the protection of motherhood and fatherhood, specifically 22 months' leave paid at 100%. The report has only proposed 20 months, and not all this time is guaranteed at 100% pay. I therefore do not understand the position of the Group of the European People's Party (Christian Democrats) and European Democrats, which does not even want to accept this.

The small step proposed in this report needs to be approved here today so that the rights of women, children and families can be promoted. It is not enough to say that we defend these rights. We need to take small steps forward in the promotion and defence of these rights.

**Zita Pleštinšá (PPE-DE).** – (SK) Motherhood is the greatest miracle which God has bestowed on women. It should not be a ground for discrimination against women, but, on the contrary, should be valued by society both during the course of a woman's active life and in her old age.

However, we must be realistic because well-intentioned proposals can sometimes create problems. The EU Member States have different social systems. The Scandinavian countries are advanced in this area but the new EU-12 have some catching up to do and it would therefore probably be very difficult to establish harmonised rules which could be introduced throughout the EU.

Despite the fact that the Estrela report brings some very positive amendments to the draft directive, there are also some contentious points which in my opinion do not belong in this report and which must be removed, as Commissioner Špidla has already mentioned.

The amendment proposals of my political group, the Group of the European People's Party (Christian Democrats) and European Democrats, deal with some of the points, for example the duration and the amount of maternal allowance and extensions in case of premature or multiple births or breast-feeding, free time for the purposes of breast-feeding and the employment rights of women returning to work after maternity leave. I hope that these amendment proposals will be passed in the vote.

**Siiri Oviir (ALDE).** – (ET) It is clear that we must recognise the need to implement more effectively the principle of equal treatment regarding men and women working as sole proprietors and the spouses who assist them.

Unfortunately, assisting spouses do not form a large and united target group, their status is not regulated in any Member States and their work is not recognised. They lack social protection, their risk of poverty is high, and in the event of a divorce they become complete outlaws from the point of view of social protection.

Thus I believe that it should be made compulsory for assisting spouses to join the social protection system, and a framework of minimal guarantees should be established.

**Vladimír Špidla, Member of the Commission.** – (CS) Mr President, honourable Members, I would like to thank you for a discussion that has tackled the proposal from many different perspectives. I think it is unnecessary to mention all of the proposals. A great majority of the justifications were quite clear, as I pointed out in my opening speech. Nevertheless, I think there were two proposals which cropped up repeatedly from various sides and which were discussed from a number of different perspectives. The first was the issue of paternity leave. I would like to state clearly that, even though I am in favour of paternity leave, I am still convinced that a directive that is designed to protect the health of mothers is not a suitable instrument for the introduction of this particular principle. In my opening speech I stated that the social partners had reached an agreement over parental leave, and it would be logical to include the possibility of paternity leave in this agreement. So there are tools other than the directive, in my view. The other issue to be mentioned was Amendment 14, namely the introduction of mandatory insurance. In this respect, I would like to add that, even though I understand the argument, I still think it is not appropriate to take such a radical step, primarily because it would seriously threaten the possibility of reaching a compromise. On the other hand, I would like to stress that the proposals we have tabled mark a major step forward, because in some countries there is no

opportunity to join such a system at present, not even on request. This means that a new obligation will now be introduced. In my view, this is a typical example of upward harmonisation.

#### IN THE CHAIR: MRS KRATSA-TSAGAROPOULOU

*Vice-President*

**Astrid Lulling**, *rapporteur*. – (FR) Madam President, I am sorry that the Commissioner is opposed to the key amendment of my report, supported by all the political groups, calling for assisting spouses and recognised partners to be entitled to the same social protection as self-employed workers on a mandatory basis and not just at their request. Experience proves that, if they are not obliged to make social security contributions, they do not, for the same unfortunate reason that you mentioned, Commissioner: cost.

Of course, social protection costs money, for self-employed workers as well as for employed workers. The desire to save money on social contributions is a huge mistake that must be avoided.

Of course, if, within a Member State, there is no social protection for self-employed workers, we cannot demand that it be made obligatory for their partners. But partners should be entitled to it at their request. I shall make an oral amendment on this, in line with Mr Cocilovo.

Allow me to add a few words on maternity protection, because our position has been very badly misunderstood. If we want to strengthen maternity protection by increasing maternity leave, we should not forget that extending it to 18 weeks, of which only a third would coincide with the obligatory six weeks to be taken after the birth, goes against the objective of better protection for the health of the mother and the baby.

That is why, in our opinion, the best solution would be six obligatory weeks and an increase to 20 weeks for multiple births and breastfeeding. Let us not forget the problems of recruitment and promotion that women of childbearing age already face.

With regard to age, it is absurd to wish fathers to take the same leave as that of pregnant women. Of course, Madam President, the increasing infertility of men in Europe is worrying, but not as much, in my opinion, as the continued inequalities between men and women in the sharing of family responsibilities, as this inequality is the reason why many women decide not to have children. In addition, we will not solve Europe's demographic problem through over-protection, as this only serves to make women unemployable.

**Edite Estrela**, *rapporteur*. – (PT) Madam President, Commissioner, I am shocked at the European Commission's position on my proposal for paternity leave. It is a conservative and unacceptable position, which is out of touch with reality.

Commissioner, I have not talked about parental leave, but about paternity leave. These are two very different concepts.

If paternity leave does not fall within the scope of this directive, why has the Commission proposed extending the legal basis, and why is this not based solely on Article 137 relating to the protection of health? Why has the Commission introduced Article 141 of the EC Treaty relating to the promotion of equal opportunities for men and women?

Commissioner, and members of the Group of the European People's Party (Christian Democrats) and European Democrats, motherhood and fatherhood are eminent social values which must be respected and brought together. It is here in this directive that paternity leave and maternity leave must be brought together. We must think about children, Commissioner. We must think about the welfare of children because, if they are supported by their father and mother from an early age, their physical and psychological development can be greatly improved.

Furthermore, Commissioner, you cannot be unaware that paternity leave already exists in the national legislation of many Member States. Is the Commission actually trying to remain out of touch with the reality that already exists in Member States?

I am very surprised at this position, Commissioner. It is precisely because the European institutions are out of touch with reality that the people are remote. This is precisely why abstention is so high.

We have to give our citizens reasons to go out and vote. As a result, Commissioner, we must adopt legislation that helps them. If they can see that the decisions taken in the European Parliament improve their lives, they will certainly have more reason to go out and vote next month.

**President.** - The debate is closed.

The vote will take place on Wednesday, 6 May at 12 noon.

#### **Written statements (Rule 142)**

**Zita Gurmai (PSE), in writing.** – Even during a crisis, equal treatment should be high on the political agenda. Women will suffer from the present crisis in the long run, and will be hit in the second wave of redundancy. They will have to cope with their unstable social and economic situation and their growing burden of juggling earning money and care responsibilities. In such circumstances, we may not allow women's rights to be taken away from them.

Self-employment is of great importance for women because it could be of great help in avoiding unemployment or in better reconciling professional and family life. In this way, women would have an efficient tool for contributing to the development of the economy. Women should have equal chances to engage in self-employed activities and establish companies; maternity-leave systems should ensure that self-employed women can benefit from them in the same way as employed workers. In parallel with this, safety and health for pregnant workers and those who have recently given birth or are breastfeeding is of crucial importance.

Not only does this help Europe not to lose women's talent and presence in the workforce but it also contributes to facing the present demographic challenge and ensuring children's healthy physical, emotional, and mental development.

**Rovana Plumb (PSE), in writing.** – (RO) As a Social Democrat and mother, I support this directive as it concerns the following issues: the health and safety of pregnant workers, of women who have recently given birth or are nursing their child, equal treatment issues, as well as the right to return to the same or an equivalent job, the right to a career, regulations on leave and labour contract rights or granting more generous financial support during maternity leave.

At present, the length of maternity leave varies from 14 weeks in some Member States to 28 weeks in others. Indeed, in some cases it can last up to 52 weeks, but with benefit provided only for part of it. I therefore think that the option of extending the length of maternity leave and increasing the relevant benefit paid during this period is an adequate way of improving women's health and safety, as well as allowing them to balance their professional and family obligations, thereby promoting equal opportunities for men and women on the labour market.

Stressful conditions in the workplace can have an impact on the state of mind of a woman who is pregnant or has recently given birth. This is why we must take a preventive approach which will ensure that an adequate risk assessment is carried out at the workplace.

### **17. Organisation of working time (debate)**

**President.** - The next item is the statement by the Chair of Parliament's delegation to the Conciliation Committee on the organisation of working time [2004/0209(COD)]

**Mechtild Rothe, Chairman of the European Parliament delegation to the Conciliation Committee.** – (DE) Madam President, ladies and gentlemen, as you know, the conciliation procedure relating to the Working Time Directive has failed. In this case, Article 65(5) of the Rules of Procedure provides for the Chairman of the European Parliament delegation to the Conciliation Committee to make a statement in plenary. For this reason, I will now make a brief statement on the progress of the negotiations on the Working Time Directive.

After several trialogues and three sessions of the Conciliation Committee, it became clear in the last session shortly after midnight and shortly before the expiry of the deadline that it would not be possible to come to an agreement. The European Parliament delegation had previously voted with a clear majority of 15 votes in favour, none against and five abstentions to oppose the final conciliation attempt of the Commission. This proposal was not accepted as the basis for a genuine compromise. At the same time, it was also rejected by the Permanent Representatives Committee which was meeting in the neighbouring room. In a letter dated

29 April 2009, the two co-chairmen of the Conciliation Committee informed Parliament and the Council of Ministers that it was not possible to come to an agreement on a joint text within the deadline specified in Article 251(5) of the EC Treaty.

I very much regret that the two institutions did not succeed in finding any common ground. However, if we consider the three points which remained in dispute until the end – the opt-out from weekly working time, the conditions of on-call time and the multiple contracts per worker – the differences in positions were so great that there was no possibility of reaching an agreement which would have been compatible with the European Parliament resolution of 17 December 2008.

The Council in particular did not move an inch on the question of the opt-out. Parliament offered several compromises which would have given the employers' side a great deal of flexibility on working times. Parliament was particularly cooperative on the question of the conditions of on-call time, because the majority of Member States, in this case nine, use the opt-out exclusively for on-call time. However, a blocking minority in the Council prevented every attempt to introduce a derogation. Not even a suggestion of an end to the opt-out was accepted.

On the subject of on-call time, the Court of Justice of the European Communities has made it clear that on-call time is working time. Even the inactive part of on-call time cannot be considered in whole or in part to be a rest period, as the Council demanded. It was also obvious to the Parliament delegation that on-call time is necessary when a continuation of work is required. The Council was not prepared to accept this restriction. What is the result of this? If a waiter sits in an empty restaurant, this counts as inactive on-call time which will, of course, be evaluated differently. This must not be the case. Taking a flexible approach, Parliament also supported the proposal for a maximum working time of 48 hours per worker and not per contract. In this case we could not even agree on this principle being laid down in a recital.

It was clear to the Parliament delegation that no compromise is better than a bad compromise at the expense of the workers. Parliament submitted numerous proposals to the Council until we felt that we had reached the end of our tether. However, there was a group in the Council that was not prepared to compromise in any way. I also believe that at some points the Commission could have submitted proposals which offered more of a balance between the position of the Council and that of Parliament.

During this parliamentary term, Parliament has adopted 389 legal acts in the codecision procedure. Of these, 24 were concluded at the third reading following successful conciliation. This demonstrates clearly that there is a culture of cooperation between the institutions. For the first time since the entry into force of the Amsterdam Treaty, the Conciliation Committee has failed to reach an agreement in the case of the Working Time Directive. I hope that the new Commission will very soon present a new proposal which will, I hope, lead to an agreement.

Finally, I would specifically like to thank the Conciliation Committee secretariat for its excellent groundwork.

**Michal SEDLÁČEK**, *President-in-Office of the Council*. – (CS) Mr President, Commissioner, ladies and gentlemen, on behalf of the Czech Presidency, I would like to inform you about the Council's position regarding the completion of negotiations on the revision of the Working Time Directive. As you are undoubtedly aware, the Council spent four long years discussing an amendment to this directive before finally reaching a common position on the content – after some highly complex negotiations.

A qualified majority of Member States have agreed that the key disputed issue of the opt-out will be left in the directive, but with strongly defined conditions which will tighten up its application considerably. The Council, for example, wanted to reduce the maximum weekly working time when using the opt-out from 78 hours to 60 or 65 hours and proposed banning the use of opt-outs when signing an employment contract or limiting the period of consent given by employees to work in an opt-out regime to one year. The Council's aim was to restrict the use of opt-out in the Member States, but primarily to enhance the protection of employees who are using the opt-out. The Council viewed its draft directive as a well-balanced document promoting employee protection, and hoped it would also prove acceptable to Parliament, which was expected to approve it at the second reading.

Since the vote last December, the Czech Presidency has been well aware of the different attitudes of the two institutions towards the draft directive, but has not regarded the negotiating procedure as a fight for prestige between the two institutions. Instead, it has taken a pragmatic, non-ideological and realistic approach, taking account of the realities of the European labour market. It is an indisputable fact that the opt-out is used today by 15 of the 27 EU Member States. Since January this year, when the Czech Republic took over the Presidency,

we have pursued very intense negotiations at all levels in an effort to find space for a possible compromise with Parliament. The first meeting of the Member States on this topic was held in Prague on 13 January. At least eight rounds of informal trialogues have been held to date, as well as three rounds of the negotiating process proper. At this point I would like to thank the Commission, and especially Commissioner Špidla, for its specialist assistance and constructive approach in searching for a possible compromise over the wording of the directive. The Council was willing to agree and to compromise on the common position, but despite this no agreement has been reached. Over the past four months, the Czech Presidency has been very active and responsible in holding talks with Parliament and submitting many compromise solutions to Parliament on various issues regarding the directive in a bid to find a final solution acceptable to the Council and to Parliament.

Today I can state that the Council made a number of concessions to meet the demands of Parliament, and yet these were not enough for Parliament. For example, the Council was prepared to abandon the common position and to endorse Parliament's view that all on-call time is indeed work time. The Council also made concessions during the debate on harmonising work and family life in the deadline for providing supplementary daytime rest and in the definition of top-ranking employees, and I could list further examples. The Council wanted to come to an agreement with Parliament over the key issue of the opt-out and was prepared to accommodate Parliament's demands and to accept its other proposals, for example a ban on arranging opt-outs during the probationary period and removal of the maximum weekly working time for the opt-out, even though we naturally felt that we were acting against the interests of employees. We were even prepared to accept the idea of introducing registration of hours actually worked in the opt-out. However, Parliament did not even go half way to meet the Council's position.

Speaking on behalf of the Czech Presidency, I am frankly sorry that Parliament was unwilling to compromise and to agree on a revised directive, which has been awaited not only by Member States but also by EU citizens for five long years. Agreement on a revised directive would contribute to greater protection for employees, would help in solving the problem of on-call time and rest, and would pave the way towards a gradual reduction in the use of opt-outs in the Member States. However, the MEPs in the negotiating committee were deaf to these proposals. They refused to accept them and they refused to accept the Council's counter proposals and the compromises offered by the Commission, insisting instead on their own ideological position. Since Parliament was unwilling to respect the situation in the Council and the realities of the current situation, the existing directive will remain in force. Use of the opt-out will not be restricted, no monitoring will be introduced, and workers will have to continue working up to 78 hours a week. In all probability, the attitude of Parliament will lead to greater use of the opt-out. The European Commission has received signals today from another two Member States that are intending to introduce the opt-out, and consequently any hopes for its future abolition are further reduced. The Council wanted to prevent this but Parliament has ruled otherwise.

**Vladimír Špidla**, *Member of the Commission*. – (CS) Mr President, ladies and gentlemen, I am very sorry indeed that the Council and Parliament have failed to reach an agreement in the final round of bargaining over the revision of the Working Time Directive. The Commission has done everything in its power to find a compromise, submitting a range of proposals on all of the main issues in order to help both lawmaking bodies come closer to a final version. In the end, however, the Council and Parliament insisted on their differing standpoints concerning the future of exceptions and the opt-out, which could not be reconciled.

I understand and respect the wish of Parliament to end the use of exceptions with definitive effect. That would also be the ideal solution for me, and we incorporated it into the Commission's amendment to the directive in 2005. Nevertheless, after several years of negotiations, it became quite clear that this element would not facilitate an agreement in the Council, and that it would not overcome the blocking minority. Too many Member States simply insisted on using individual exceptions and on retaining this provision in the directive. That was why the Commission tabled alternative proposals for improving the legal protection of employees who use exceptions, thus weakening their use in practical terms. The Commission also proposed introducing consistent monitoring of the use of exceptions at national and European levels, and imposing restrictions on the simultaneous use of exceptions, which would have reduced the incentive for Member States to grant exceptions. I firmly believe that this approach would in practice actually improve conditions for workers and more importantly, would enhance the long-term prospects for Member States eventually to agree on scrapping exceptions altogether. Parliament took the view that there is no better arrangement than a complete abolition of the opt-out. I respect the grounds for such a decision, but I hold a different opinion.

As I have mentioned on many previous occasions, I firmly believe that the failure to reach agreement on the amendment is a bad message for European workers and enterprises, for European institutions and, by extension, for Europe as a whole. Firstly, this means that the problem of exceptions has not been resolved and exceptions will continue to be used under the existing directive, with no date for their termination, with a very limited number of restrictions and without any special review at all. I know that many of you have raised the objection that workers would work 65 hours a week, and I fully understand those concerns, but the fact is that the current directive allows for a working week of up to 70 hours. Secondly, even though the ruling of the Court of Justice in the matter of on-call time and supplementary time for rest will remain unchanged, I am afraid that in many cases this will not lead to better protection for workers in practice. Many Member States have areas with a high rate of on-call time, and they are facing real problems in adhering to the rules stemming from the SIMAP and Jaeger judgments. The result so far is that more and more Member States have now started using exceptions in order to solve this problem. At present, there are 15 such countries, and I am afraid that now, since there is no agreement in place for on-call time, even more Member States will start using the opt-out in order to comply with the ruling of the European Court of Justice, as they will have no other option available. With an increasing number of Member States using exceptions, it will be much more difficult to reach agreement in the Council on ending the exceptions. Thirdly, the failure of the negotiations means that a series of very significant special guarantees approved by the Council for workers all over Europe who are currently using the exceptions, will not be valid, and will not come into force. And lastly, we have also missed an opportunity for improvement in terms of the measures aimed at harmonising work and family life, and clarifying the definition of the variations for self-employed workers. However, both lawmaking bodies have now taken their decision and the immediate result is that no special reviews of exceptions will be made, as the existing directive requires. I respect that decision. Together with the other members of the Commission we will now have to consider the situation that has arisen as a result of the lawmakers' failure to reach an agreement.

However, I would also like to note that after five years of negotiations, during which a number of partial proposals were tabled and many attempts made to find a solution, no solution was found. This means that it will not be easy to submit a new proposal that might miraculously solve the situation. I therefore consider it necessary to review the situation very carefully with the social partners. Only then can the Commission proceed to another decision and another course of action.

**Hartmut Nassauer**, *on behalf of the PPE-DE Group*. – (DE) Madam President, ladies and gentlemen, I would first of all like to state on behalf of the Group of the European People's Party (Christian Democrats) and European Democrats that it is not in the interests of European workers that the conciliation procedure on new working time legislation has failed and that the old working time legislation continues to apply.

I would also like to say that it is a myth that this is purely the fault of the Council, while the majority of those in Parliament, like knights in shining armour, have sacrificed themselves in the interests of the workers. The reality is that both parties are at fault. It is true that the Council did not move an inch on the question of the opt-out, but the majority in Parliament was equally inflexible in insisting that a solution was only possible if the opt-out was abolished. As a result, both parties passed like ships in the night and the result was easy to predict.

This is a lost opportunity. For example, it would have been possible to put in place a European on-call time regulation which specified for the whole of Europe that 'on-call time is working time', as the Court of Justice of the European Communities has laid down. In order to achieve this it would have been necessary for the majority in Parliament to have moved a very small distance on the question of the opt-out, for example when it was a case of determining the conditions under which an opt-out is possible, which should be as strict as possible, and who takes the decision about the opt-out. The two sides of industry should have been involved. However, none of this happened. The insistence on the removal of the opt-out at all costs became a sacred cow. This was the other side of the irreconcilable behaviour which resulted in the failure of the new solution. This is a very regrettable situation. As I have said, it is not in the interests of the workers.

**Alejandro Cercas**, *on behalf of the PSE Group*. – (ES) Madam President, though futile efforts lead to melancholy, I wish to repeat that the opt-out should come to an end, because it was intended to last for a ten-year period – which finished in 2003 – and its end is extremely important for people's health, for combining family and professional life, for us to have a discussion that fits with the one we had half an hour ago and the one that will follow, for the international conventions of the International Labour Organization to be respected, for European social law to become a reality, for workers' organisations to remain intact, and for citizens to continue to have faith in European institutions.

As our President has said, an agreement has not been reached because the Council's proposal has always been to move backwards, back beyond the 19th century, making employment law merely a bilateral relationship between the worker and the employer, without laws or regulations, without anything to respect beyond so-called 'free choice', forgetting that there is always an imbalance of power between the worker and the employer.

This is not true; they are fooling themselves. Parliament has stirred; it has provided every kind of alternative to solve real problems, but this is an ideological problem. The Council did not want to put an end to the opt-out. A minority in the Council wanted the opt-out, which was temporary in 1993, to become permanent and, with Parliament's vote, to be forever, leaving the hope and dignity in this battle to us.

They did not want to; they merely wanted to give the opt-out a superficial make-over, but to do so permanently, destroying one of the fundamental instruments of European social law. That is the truth, and it is not true to say it was a reduction in the working day – with the proposal from the Commission and the Council working hours totalled 78 per week – because there were to be 60 and 65 hours calculated over three months.

So please stop saying things that are not true. Stop deceiving public opinion. Admit that you wanted to make permanent what was temporary in 1993, and admit that you wanted to turn what was exceptional into something normal.

They proposed that it be a derogation, as in Article 20; a derogation, not an exception: that it be something normal. At the same time, moreover, the proposal was an unrestrained assault on the legislation of the Court of Justice. It took away doctors' rights and it took away their working conditions. They have never even come close to our idea, or to that of the Court of Justice regarding compensatory rest for doctors. It was an unrestrained attack on workers. What is more, they have accused us of doing this during an election period. It is an honour to listen to citizens and workers.

We are experiencing a major social crisis; there is a vast distance between the citizens and our institutions. Fortunately, Parliament has not fallen to its knees before the Council and fortunately, Commissioner, there will be a new Parliament here, a new executive Council and there will probably be changes in Member States' governments; the workers of Europe have hope: the mandate of 17 December has been retained, and we will continue our fight, Commissioner.

(Applause)

**Elizabeth Lynne**, *on behalf of the ALDE Group*. – Madam President, obviously we know that there was stalemate, but better no agreement than a bad agreement in my view.

We always knew that it would be inevitable, but it took so long to actually acknowledge it. I think that is more to do with some parliamentarians wanting to appear tough to their electorate than with anything else.

Once a majority for the Parliament voted to get rid of the opt-out, there could of course be no deal as 15 countries use it, as we have already heard.

I support the opt-out of the 48-hour limit of the Working Time Directive as long as it is voluntary. I attempted during committee to tighten this up and make sure that you could not sign the opt-out at the same time as the contract and that you could opt out of the opt-out at any time. Indeed, that is what the Council also proposed. It is important for flexibility, for the worker and the employer alike. Why should someone not be allowed to earn overtime if that is what they choose to do?

My fear also was that people could be forced into illegal work and would not then be covered by health and safety legislation, including the dangerous machinery directive.

Far more of a problem are multiple contracts and the definition of autonomous work. These are abused far more than the opt-out, but the Council did not really move substantially on this and Parliament did not really push that point either.

As far as 'on-call' time is concerned, I believe that all 'on-call' time should be classed as working time. I was pleased that there was movement from the Council on that.

As I said at the outset of this debate five years ago, we should deal with the Court rulings of SIMAP and Jaeger and nothing else. Maybe we will do that in the future and address the health sector alone.

Finally, I must say I am pleased that we have kept the opt-out of the 48-hour limit, particularly for fire-fighters in the UK who would have had extreme difficulty providing cover if the opt-out had been lost, and I congratulate them on their campaign.

**Elisabeth Schroedter**, *on behalf of the Verts/ALE Group*. – (DE) Madam President, President-in-Office of the Council, Mr Špidla, at election time we would have liked to have been able to present the citizens of Europe with a Working Time Directive which offered minimum health and safety standards.

This would have been our contribution to the concept of improving the quality of work. Our resolution would have set minimum standards and, at the same time, would have offered a degree of flexibility which would have represented a solution for hospitals. However, the Council has blocked this over a number of weeks and it has finally failed. Unfortunately, the Commission is also partly responsible in this case, because it has not contributed to the process of finding a solution. The Commission proposals have ridden roughshod over labour law and called into question something which would generally have been regarded as a legal minimum standard. We in the Group of the Greens/European Free Alliance, together with a large majority of the Conciliation Committee, were not prepared to vote in favour of legalised exploitation.

It is well-known that the German Labour Minister and social democrat, Olaf Scholz, was one of the hard core of objectors in the Council. In all seriousness, he wanted to introduce exceptions to a long-term solution which would allow people to work up to 78 hours per week. In Germany he claims to be the representative of the workers, while in Brussels he acts as the spokesperson for those members of the Council who are opposed to the interests of European workers. He has stabbed the Social Democrats in the back.

**Ilda Figueiredo**, *on behalf of the GUE/NGL Group*. – (PT) Madam President, we welcome the lack of agreement between the European Parliament and the Council on the amendment of the Directive on the organisation of working time, because what was proposed was worse than what currently exists, in relation to both the average working day and on-call time.

In fact, what the European Commission and the Council were trying to do was open the door to greater devaluation of work and an attack on the negotiating right of trade unions and on collective bargaining. This would have been achieved by allowing simple administrative provisions to regulate the organisation of working time and its payment, thereby jeopardising on-call time and the right to rest periods, in a backward step of 100 years in labour rights.

The obligation to give full pay for on-call time, including rest periods, whether in the health and emergency services or in the fire service or in any other sector of activity, therefore remains in force, in accordance with existing law.

We will continue to bring to public attention the workers' struggle against the notorious opt-out and for the appropriate valuation of work. We will continue to argue for a reduction in the working day without any loss of pay, which is an important requirement in a time of recession in order to create jobs and reduce unemployment. We will also continue to promote the health and safety at work of workers and the reconciliation of work and family life.

We want a genuine social Europe that is not forgotten after the elections to the European Parliament.

**Derek Roland Clark**, *on behalf of the IND/DEM Group*. – Madam President, President Klaus remarked on 18 February that the EU structure is a dogma which contradicts the experience of heritage.

Member States have a heritage. They do things their own way, including the way they work. When I pointed this out at the first conciliation meeting and remarked that Member States should not be forced into a strait jacket, a fellow MEP actually queried whether I should have been invited to the meeting. There is democracy for you!

The Commissioner's document produced later that night included the text 'preferences and needs of workers make it impossible to fix a date to end opt-outs' – it is nice to hear an echo!

As President Klaus said, there is a great distance between the citizen and elected EU representatives, but much less within Member States, which makes the EU undemocratic. I agree, and I for one insist on being more representative of the citizens. After all, where there were but four Member States wanting opt-outs in 2004, there are now 15. Does that not tell you anything? And MEPs had the nerve to call 15 states out of 27 a blocking minority – Parliament is in denial!



**José Albino Silva Peneda (PPE-DE).** – (PT) Two issues stood out in this negotiation: so-called on-call time and the opt-out clause.

With regard to on-call time, I want to say that we were very close to a compromise but that, at the last moment, the Council inexplicably back-pedalled.

As for the opt-out, Parliament could never have accepted its undefined generalisation because, in practical terms, this would have simply meant the deregulation of the labour market.

The fact that there are currently 15 countries using the opt-out is because the proportion of on-call time is not sufficient to meet actual needs. The on-call system is not sufficient to meet actual needs, particularly in the area of health. This was resolved in Parliament's proposal, and it would not have been necessary for so many countries to use the opt-out. This was even recognised by the Presidency during the negotiations.

What is absolutely clear is that the opt-out has nothing to do with flexibility. Flexibility can be fully achieved by making the reference period a year, as proposed by Parliament in 2005.

Parliament has always fought on this issue so that we could at least glimpse a future date when the opt-out will end. However, a blocking minority in the Council not only accepted this opt-out, but also wanted to make its application a rule, rather than an exception. I would remind you that the opt-out was accepted in 1993, but as a clear exception.

Ladies and gentlemen, employment contracts cannot be compared with any other contracts in which the parties are in an identical situation. Employment law and science exist in Europe because for a long time it has been accepted that one of the parties is at a disadvantage and must therefore be protected.

The blocking minority in the Council, with its clear attitude of inflexibility, wanted to end this protection, which, in my opinion, is absolutely unacceptable to anyone who defends the fundamental values that form the very foundation of the European social model.

**Jan Andersson (PSE).** – (SV) Madam President, I would like to take this opportunity to thank my colleagues on the negotiating team for their constructive cooperation. It is regrettable that agreement will not be reached. That is due to the situation that we have at present, which is that 15 Member States are using the opt-out. No doubt there may be a few more, and that is not a good situation.

I can also tell you that we made some progress during the negotiations. Where on-call time and time off in lieu are concerned, I consider it progress that we all said that on-call time counted as working hours. I believe we could have reached agreement there. The reason we did not reach agreement was the opt-out. On the one side was the Council, with a blocking minority that absolutely did not want to remove the opt-out, and on the other – and this is often forgotten – a large majority in the European Parliament that does very much want to get rid of the opt-out because it has nothing to do with health and safety. We Members of Parliament tried, we made a proposal that the Council itself should come up with an end date. In the end we were even willing to say: 'We will simply set a date for further negotiations and for coming up with an end date'. The Council was not willing to accept even this. It then became impossible. It was not the case, Mr Sedláček, that the Council accepted all the conditions set by Parliament as regards conditions for the opt-out. When we started negotiations on the last day more or less every suggestion was rejected. I can confirm that there is actually a majority in favour of removing the opt-out. There is a large majority in Parliament and a majority on the Council, but unfortunately it is a minority on the Council that is allowed to decide that the opt-out must remain. This is unsatisfactory. I hope that the Commission will come back, that people will accept their responsibility and that the starting point for a new proposal will be what the directive is about, which is health and safety for workers, and that then the opt-out will have to be phased out.

**Bernard Lehideux (ALDE).** – (FR) Madam President, Parliament and its rapporteur have been forced to reject a poor compromise, which they were right to do. Our delegation has remained true to the position adopted by a very large majority in plenary who called for the eventual elimination of any exception to the statutory working time.

However, the truth is that Parliament was alone in wanting to make progress. The representatives of the European people had gone beyond partisan divisions in order to end this anachronism of the opt-out. We were alone in proposing a genuine compromise text, which the Council has brilliantly ignored, just like the Commission. The Council and the Commission have aligned themselves with the position of those who fiercely oppose any progress in workers' rights in Europe.

President-in-Office of the Council, it is clear that you have achieved your aims. The Court of Justice is forcing you to regard all on-call time as working time; you have therefore lost nothing on that score. The opt-out that you want still exists in practice, as opposition to progress has carried it through. More than ever, the new Members elected in June will have to fight for top-down harmonisation of social standards.

**Dimitrios Papadimoulis (GUE/NGL).** - (EL) Madam President, the Council, hand in hand with the Commission, bears full responsibility for the failure to find a compromise and the reason is simple: it is because you insisted that we accept a compromise which would maintain the opt-out perpetually; you wanted to deceive and humiliate us and millions of workers by turning a provisional exemption granted to Great Britain in 1993 into a permanent, anti-labour regulation. Fortunately, the large majority in the European Parliament said no. Anyone with any doubts as to who bears responsibility need only listen to the speech by the representative of the Czech Presidency: dogmatic neo-liberalism, hard-line ideology, arrogance and a cheap attempt to deceive the European citizens.

Mr Špidla, you do not have the right to interpret and apply judgments by the European Court of Justice 'à la carte'; you have to apply the case law of the European Court of Justice and to institute infringement proceedings against Member States which have failed for years to apply the judgments of the Court. You cannot say that we do not do so, because we are going to revise the directive. Understand one thing: there is no way that Parliament will agree to a compromise which does not abolish the opt-out.

**Edit Bauer (PPE-DE).** - (SK) Following the initial hopes that we were approaching agreement on the revised Working Time Directive it is truly regrettable that this has not happened. There are at least two reasons why this was not the best report for our voters ahead of the elections. The first involves an interesting and unexpected development which is taking place in the new Member States.

Some investors, especially from East Asian countries, are attempting not only to introduce the East Asian work ethic, against which employees are requesting protection under the law, but are bringing a new phenomenon to the labour market: an attempt to replace domestic workers with East Asian workers who are used to a different work culture and unlimited working hours. In the current crisis situation, with increasing unemployment, the asymmetric relationship between employer and employee is becoming increasingly clear. Therefore limiting working times is all the more necessary, bearing in mind the need for workers' freedoms.

The second problem which remains unresolved and which has serious consequences for the new Member States is the calculation of on-call time. Under the circumstances we are obliged to go for an opt-out, which we wanted to avoid but without which we could not guarantee basic care. Madam President, I do not want to point the finger but I would like to believe that in the new election period we could find an acceptable solution to these pressing problems.

**Roberto Musacchio (GUE/NGL).** - (IT) Madam President, ladies and gentlemen, the failure of the Working Time Directive was inevitable. The Council maintained a provocative position, as we heard in this House earlier, by ignoring the parliamentary vote, which was then repeated at second reading, years later. It is with that vote that we go before the electorate – I would like to say to Mrs Lynne – since we do in fact have a mandate from the electorate.

The worrying thing is the subject of that extremism. The Council wants to keep both the opt-out and the yearly calculation of working time. The 78-hour week, I would point out to the Commissioner and to the Council, is arrived at by postponing the rest periods provided by the text that the Council has defended. It therefore represents a worse situation than the previous directive; frankly it is difficult to understand what concept the Council has of work and working conditions, but also of trade unions and contracts.

If we continue with the opt-out approach, if we do not work towards harmonising working conditions, then we are not working for Europe, but against it, in other words we are creating conditions that weaken the social fabric of Europe and prevent it from tackling the real reasons behind the current crisis.

The responsibility for the failure therefore lies fairly and squarely with the Council. Parliament has done its duty.

**Juan Andrés Naranjo Escobar (PPE-DE).** - (ES) Madam President, recognising a failure is the first step towards being in a position to achieve success. The conciliation has indeed failed, but not the chance to rebuild the dialogue, starting today.

The difficulty lay not in the practicalities of individual derogation from the maximum 48-hour working week, because it was precisely to overcome that difficulty that Parliament offered long transitional periods; the problem stemmed from highly differing points of view when it came to establishing a Community rule with the ultimate aim of ensuring health and safety at work. The subsequent problem was also regulating on-call time in accordance with Court of Justice rulings.

With regard to the main problem of the opt-out, it is my view that what the Council was offering was legally contradictory and, above all, went against what I consider to be essential elements for a Europe that cannot, and should not, relinquish its social dimension without losing its identity. It was unthinkable to allow into Community legislation a general, permanent law that went against the recommendation of the Commission which, in its social agenda, urges Member States to comply with the International Labour Organization convention. It was also possible to reach an agreement by acting on the set of exceptions and general rules; in addition, we could have made use of the contribution of social stakeholders who, if their independence is respected, can provide fair, effective agreements.

In short, Parliament's proposals contained solutions that could provide what companies need, that is, flexibility to adapt working hours to different workloads, because the fact is that no two sectors are the same, nor companies within each sector, and because what we need and what my country in particular needs – we hold the sad record of having the highest unemployment rate in the European Union – is for our companies to create more employment and fewer redundancies.

Ladies and gentlemen, I am among those who are convinced that we need urgent reform of our social systems; I, too, believe it is entirely possible to reconcile economic efficiency with the hope for social improvements and to reconcile freedom with justice, which is precisely why we must establish limits and minimum social standards for all Member States.

**Philip Bushill-Matthews (PPE-DE).** - Madam President, when future generations come to judge this Parliament and its work on the working time dossier, I suggest that they will view how MEPs behaved during the triologue process with sheer incredulity. They will see that here was a directive born and bred in the early 1990s when the Socialists were the largest party in this House and when the Left was running the majority of Member State governments; that here was a directive which, however well intentioned, reflects the standard Socialist dogma that people cannot be relied upon to make their own choices about their own work/life balance, that politicians always know best and that, of course, European politicians know best of all; that here was a directive on working time that has simply never worked.

The opt-out, originally devised for the UK, became an opt-out that 14 other countries progressively needed to use, and we heard from the Czech Presidency today that at least two others are now joining that group. Meanwhile, 21 out of 27 countries could never make the directive work as far as their national health services were concerned, so the Commission came up with proposals to resolve this.

We have a directive which clearly cannot be implemented, and what has been the reaction of this Parliament? That the people are wrong; that the Member States are wrong; that the Commission is wrong and that all must be forced into this one-size-fits-all strait jacket, which plainly does not fit anybody. Understandably, the Council refused to give way because, like MEPs, Member State governments were elected to open up opportunities for people, not to restrict their freedom. They, however, remembered what certain MEPs have forgotten.

So the opt-out remains for the present, but so do the problems, and the issue now rolls forward to the next generation of MEPs in the next mandate. I just hope that our new colleagues, right across the House, will show more sense, will show that they are listening to the people and not dictating to them, will bin the directive rather than ban the opt-out, and will start afresh.

**Jacek Protasiewicz (PPE-DE).** – (PL) Madam President, Commissioner, it is a fact that after five years of intensive efforts to amend the directive on the organisation of working time we are bringing the fiasco of our endeavours to a close today. Parliament has not managed to reach an understanding with the Council and adopt new and better legislation which would improve the situation of workers, including by reducing the maximum length of the working week permissible with the consent of the worker from 78 hours to 65 hours.

I regret that I have to say — and here I differ from the previous speakers, especially those from the left-hand side of the Chamber — that a significant part of the responsibility for this ending rests with our Parliament, which adopted an unrealistic negotiating strategy. Many countries of Europe have a saying which runs, 'the

better is often the enemy of the good'. Unfortunately, I noticed that during the negotiation period this piece of folk wisdom seemed to have been completely forgotten by most of my fellow Members, especially from the left-hand side of the Chamber.

I would like to say something, although doing so will not bring me any satisfaction. I will remind Parliament that during the first meeting of the Conciliation Committee I proposed adoption of a compromise approach, along with recognition that since in most Member States flexible principles of organising working time have been applied for years with the consent of the worker, expecting radical changes is unjustified and may result in blocking of the negotiations. Unfortunately, that is what happened, and I fear this was done with the pre-election campaign in mind, and not with the interests of European workers.

**Stephen Hughes (PSE).** - Madam President, it is really bizarre that the Council should blame Parliament for the breakdown in these talks. Parliament made all the running; it made all the compromise proposals. Late in the day, the Commission came forward with a compromise proposal, but the Council did not budge one inch, so it should not blame Parliament for this breakdown.

Now we have Philip Bushill-Matthews talking tonight about freedom of choice for workers – the freedom to work the hours they want. Well, Philip, look at the situation in the United Kingdom, the very Member State that has used the general opt-out the longest. According to the European Labour Force Survey, there are 3.5 million workers there working more than 48 hours per week on a regular basis. According to that same survey, 58% of them – almost 60% – say they would like to work less than 48 hours per week. 2.2 million of those 3.5 million in the UK receive no payment for that additional work they do each week. They are not crazy, but are of course being forced to work those hours, and have been put in a position where they have to work additional hours. That is the reality of the use of the opt-out.

**Ewa Tomaszewska (UEN).** – (PL) The Council was intent on retaining the opt-out procedure permanently and so on a real extension of the working week. The Council did not show any flexibility.

The problem of on-call time is a problem first and foremost for those who work in public services, and mainly in the health service, where extending working time means not only worse conditions for doctors and nurses, but also a threat to the safety and health of patients, and in addition civil responsibility of the doctor for malpractice. Freedom of choice in this matter meant that in a hospital in the town of Radom in Poland nobody was employed who did not agree to the procedure. This means that in practice freedom of choice does not exist.

Separation of the on-call period into active and inactive parts is an attempt to classify time which is in reality spent in the service of the employer as rest time — time spent at the place of work and which cannot be organised independently. In practice this is, therefore, stealing the employee's time. There is no reason for us to accept solutions which we consider to be harmful.

**Jan Cremers (PSE).** – (NL) Madam President, back in 1817, the socially minded British entrepreneur Robert Owen advocated the introduction of the eight-hour working day. In his view, prosperity for everyone was possible if people worked for eight hours and the work was well organised. Then, exactly 125 years ago, the initial impetus was given for the introduction of the eight-hour working day in the United States. It is one of the democratic convictions of our European community that shortening the working week contributes to a life compatible with human dignity. Fortunately, in recent decades, this has been joined by greater attention to the sharing of work and care responsibilities.

Madam President, in this context, it is a great shame that we in Europe are still having to fight to limit the maximum working week. To require workers to systematically work overtime and put in long working weeks is to destroy jobs. Various studies have shown that Robert Owen was right: working longer than eight hours is counterproductive. In these times of growing unemployment, the majority of the Council and the Commission have taken completely the wrong direction.

**Michal SEDLÁČEK, President-in-Office of the Council.** – (CS) Ladies and gentlemen, this was a very interesting debate for me. I would like to respond briefly to some of the initiatives. Firstly, I would like to say something that has not been mentioned here, and which must be stated quite frankly. Is it not, by chance, true that Europe has the highest levels of employee protection in the world? I believe this is the case, so any talk about efforts aimed at dismantling this kind of protection, or returning to the 19<sup>th</sup> century is simply not true. We are only trying to adapt it to the current economy and the global economic situation. We are not living in the 20<sup>th</sup> century. This is the 21<sup>st</sup> century, and we work – I would not like to specify the hours – but we work

all the time. Can you see this mobile phone, can you see these computers? Each of us receives e-mail messages every day and it is normal to receive them 24 hours a day. At the same time nobody ever calculates how many hours he or she really works. So the attempt being made here – we are talking about some kind of flexibility – is merely an attempt by Europe as whole to adjust to global competition.

You were right, Mr Nassauer, when you said we should agree on the issues, for example the question of on-call time. I would like to say that in this respect the Council has gone quite a long way to meet Parliament and has agreed that on-call time would be regarded as work time, contrary to the common position, which was quite different. The Council even proposed to Parliament that this directive should regulate the issue of on-call time only and leave the issue of the opt-out for another time, but Parliament did not respond to this. Mr Figueredo said that the Council's proposals have undermined the position of working people, but I would like to reiterate a basic point. The Council proposed reducing the number of hours when using opt-out from 78 to 60 or 65, but Mr Cercas rejected that. The Council proposed restrictions both on monitoring and on the introduction of opt-outs. The Council agreed to this but it was still not passed. Mr Andersson is perhaps confused when he says that the Council was unwilling to accept the Commission's compromise proposals. On the contrary, it was the Council – at its COREPER session – that approved those proposals. So the compromise proposed by the Commission was accepted by the Council, but not by Parliament.

I would also like to add that I do not know who talks to which members of the public in the EU. We also talk to members of the public in the EU, but they tell us they want more freedom, they do not want anyone to impose new obligations on them and they do not want politicians to keep interfering in their personal lives.

We are now coming up to the 20<sup>th</sup> anniversary of the Velvet Revolution – the anniversary of the end of communism in Europe – and people want to celebrate that occasion by actually defending their freedom. They do not want more and more regulations and obligations imposed on them.

Mr Hughes, I believe I indicated quite clearly in my speech the points on which the Council was prepared to compromise, so it is quite wrong to say the Council did not move an inch. I would like to add, since the rapporteur voiced hopes of government changes in Europe, that I can hardly imagine – if such a change were to take place in Great Britain – that a Conservative government would have different views to those of Prime Minister Brown's government.

I would like to say in conclusion only that we are extremely disappointed not to have reached an agreement, but if you keep on refusing to see the reality of everyday life, which is that 15 of the 27 Member States are using the opt-out and that there are currently not enough workers in many professions to do the job, especially in the new Member States, then the opt-out simply has to continue being the reality of the day. Let us return to this issue in 10 years, when the situation in the Member States may be quite different. Let us create the conditions for Member States not to have to use the opt-out, and then we might be surprised at how quickly we reach a compromise.

**Vladimír Špidla**, *Member of the Commission*. – (CS) Ladies and gentlemen, the debate featured arguments that have been used many times before and for good reason. I think this is quite natural, as the debate has gone on for five years, and has affected us all, and I would like to thank everyone who played a serious part in it. However, the fact remains that we did not achieve a good result or a stable result, and we will probably have to respond to that. I would like to note how typical it was that the debate barely covered any topic beyond the opt-out and, perhaps to a rather limited extent, on-call time. It paid no attention to additional rest, for example, nor did it take account of changes within the framework of night work, among other things. Virtually all of the changes, which went far beyond the issues of on-call time and the opt-out, have, to a certain extent, fallen hostage to the two main issues. A directive was approved in 1993 which accepted the exception. This directive envisaged certain types of revision, but not a revision focused only on the opt-out so much as on the directive as a whole. In 2003, the European Court of Justice ruled that on-call time spent at the workplace counts as working hours. The ruling has its own logic and it is quite comprehensible to me. Since that point, the number of Member States using the opt-out has risen sharply. The reason for that is quite simple. In most Member States, working hours spent at the workplace were not treated as real work time, and as soon as they had to be counted as fixed working hours, the Member States began to opt out in order to comply with the directive.

Ladies and gentlemen, as I have already indicated, the situation is complex, and has its own inner dynamic. Virtually all of the possible routes forward have been explored during the five years of debates, which have been very far-reaching. I think that our debate has not yet ended, however, and that it is vital to keep seeking other solutions because the current situation is not satisfactory. There are several reasons why it is unsatisfactory and these reasons go beyond on-call time (which I myself regard as the most serious aspect)

and beyond the opt-out, which is undoubtedly a substantial issue. The other reasons include night work, additional leave and a whole range of other issues, which can – and in my opinion gradually should – be explored to improve safety and the protection of health at work, since this particular directive deals with health and safety at work. The organisation of working time which is expressed through the directive includes this particular aspect and not only the universal aspect.

Ladies and gentlemen, the two lawmaking bodies have failed to reach agreement following a serious and lengthy debate lasting five years. We are where we are and therefore we have to look for another way forwards. The Commission, for its part, is ready and waiting.

**Mechtild Rothe**, *Chairman of the European Parliament delegation to the Conciliation Committee.* – (DE) Madam President, I have asked to make few more brief remarks because I believe that it is necessary.

The President-in-Office of the Council, Mr Sedláček, has told us that the Council accepted the proposal at the beginning of last week. I must state quite clearly that the information which we were given in the trialogue was quite different. We received the information that the Commission proposal would not be accepted, that there would be no possibility of an opt-out during the trial period and that the period of six months would not be accepted. It was also made clear that on-call time would not be regarded as a necessary continuation of working time. We were also told exactly what has been said here, that there was a willingness to toe the line. This was not the position of Parliament. I would like to make it clear that we did receive this information. The problem may be that you came later, not until after midnight, but we did receive this information.

Secondly, Mr Bushill-Matthews gave the impression that the negotiations were biased and one-sided. I would like to explain one thing. The negotiating delegation consisted of the rapporteur, Mr Cercas, the chairman of the Committee, the shadow rapporteur, Mr Silva Peneda, from the Group of the European People's Party (Christian Democrats) and European Democrats and myself. We were in agreement on every single case. The guidelines in this House ensure that my group does not have the majority in the delegation to the Conciliation Committee. The results were quite clear: 15 votes in favour, none against and five abstentions. The debate today has quite clearly demonstrated that a broad majority of Parliament supports this position. I would not like anyone to go away with this impression of bias.

**President.** - The debate is closed.

#### **Written statements (Rule 142)**

**Csaba Óry (PPE-DE)**, *in writing.* – (HU) Madam President, ladies and gentlemen.

I am sorry that the legislative process aimed at amending the Working Time Directive has ended in failure. This highlights the absence of consensus between the Council and the European Parliament on one of the key work-related issues. The Council's rejection of the compromise solution, which was confirmed by two readings in the European Parliament and supported by groups right across the political spectrum on both the left and right, has come right at the time when across Europe there is an increasing number of jobs being lost, large companies are queuing up to announce their redundancy plans and ever-increasing amounts of taxpayers' money are being used to help banks which are in dire straits and to alleviate the damaging effects of the economic crisis.

Furthermore, the adverse consequence of the Council's stubborn insistence on the opt-out was that, as a result of the conciliation procedure conducted with the European Parliament ending in failure, they also failed to reach a successful resolution of the doctors' on-call time issue, even though the EU's legislators were already very close to agreement and to accepting a compromise solution. Reaching agreement on this issue would have been much more beneficial to each party concerned than continuing the legal wrangling. Although no one is disputing the substance of the European Court's judgments, it is still an odd situation when doctors have to continually take legal action against the upholders of the institutions to be able to exercise their rights.

It is depressing that in a year as full of economic and social tensions as 2009, the Council did not show any inclination to resolve one of the key issues of regulating working hours at EU level.

#### **18. Agenda: see Minutes**

## 19. Organisation of the working time of persons performing mobile road transport activities (debate)

**President.** - The next item is the report (A6-0120/2009) by Marie Panayotopoulos-Cassiotou, on behalf of the Committee on Employment and Social Affairs, on the organisation of the working time of persons performing mobile road transport activities [COM(2008)0650 - C6-0354/2008 - 2008/0195(COD)]

**Marie Panayotopoulos-Cassiotou, rapporteur.** – (EL) Madam President, Directive 2002/15/EC really did need revising and, following a report which it was obliged to present, the European Commission tabled suitable amendments to help this industry, in order to safeguard the health and safety of its workers and, at the same time, to facilitate healthy competition. The Committee on Employment and Social Affairs accepted the opinion of the Committee on Transport and Tourism and, despite my recommendation, rejected the Commission proposal; in other words, it did not agree to exempt self-employed drivers from the scope of the directive. I must point out that the 2002 directive made provision for self-employed drivers to be included as of 23 March 2009. Developments are not as they appear in the wake of the impressions and excitement caused by the debate on a directive on road transport.

As far as driving times and rest periods are concerned, there have been significant developments since 2002, because Regulation (EC) No 561/2006, which entered into force in 2007, applies to all lorry drivers and ensures they have suitable driving times and rest periods.

Therefore, to include self-employed drivers in a directive on working time would be to misunderstand the concept of self-employment, because when someone is self-employed, they set their own working time. This would therefore be a serious, harmful action against small and medium-sized enterprises, it would restrict entrepreneurial freedom and we would be helping to create additional administrative burdens. This would set a precedent for starting a debate on the integration of self-employed persons in other sectors, thereby limiting their ability to work as long as they like. This leaves a serious problem: who is self-employed and who is a 'false' self-employed person? It is clear that certain workers claim to be self-employed but are not. The European Commission had proposed that we lay down criteria so that we can distinguish 'false' self-employed persons. However, this would not be possible, because controls are still carried out nationally. If, therefore, European legislation stipulated who was a 'false' self-employed person and who was not, this could not be made visible from national controls. Thus we have the facility now, with our new proposals, to determine at Member-State level who will and who will not be included in the directive on persons performing mobile road transport activities. We also call on the European Commission in our proposals to re-determine the results of the application of the directive. I call on my fellow Members to reject the amendment which aims to refer the proposal back to committee and to support my group's proposals, which are also supported by the Group of the Alliance of Liberals and Democrats for Europe and the Independence and Democracy Group.

**Antonio Tajani, Vice-President of the Commission.** – (IT) Madam President, honourable Members, you know that road safety is one of the priorities of my work as Commissioner for Transport.

It is also important to emphasise from the outset that, while road safety is of course a key element when discussing an issue such as drivers' working time, our debate today is not about road safety but about social legislation, not driving time but working time.

The question we must answer today is this: should self-employed contractors be subject to restrictions on working time on the same terms as employees? This is something we must look at very carefully, because there are no precedents in European law establishing how long a self-employed person can work for in an office or laboratory.

In 1998, when the Council and Parliament first debated the directive on the working time of mobile workers, the situation in the road transport sector was totally different from what it is today, as the rapporteur, Mrs Panayotopoulos-Cassiotou, said: at the time it was common practice to dodge the rules in force on driving time, meaning that professional drivers spent far too long at the wheel. On the basis of the previous regulation on driving time, introduced in 1985, it was nigh on impossible to control driving time effectively.

In that context, between 1988 and 2002 legislators discussed a Commission proposal aimed at regulating the working time not only of employee drivers, but also of the self-employed. As a result of that discussion, the sectoral directive on the working time of mobile workers was adopted. The hope was to reduce the

negative consequences for road safety arising from inadequate driving time rules by extending the scope of the laws on working time to include self-employed drivers.

The problem was not resolved, however, and following a conciliation procedure between Parliament and the Council, the Commission was invited to weigh up the pros and cons of extending working time rules to self-employed workers and thus present a proposal in 2008. The Commission met this request, publishing a detailed study in 2007 that came to the following conclusions.

Firstly, that working time must not be confused with driving time. As far as the latter is concerned, the situation has changed radically. As you know, this House, together with the Council, has adopted new rules on driving time. Among other things, these rules provide for the use of the digital tachograph, an extremely reliable monitoring device, and a specific implementing directive.

The new rules, which have been in force since 2007, apply to all lorry drivers, thus including self-employed drivers. With the new digital tachograph, which records a lorry's every move, minute by minute, a driver cannot drive for more than nine hours a day and an average of 45 hours a week. In essence, it is now possible to monitor the application of these rules much more rigorously than it was in 1985.

Secondly, there are no precedents in Community social legislation governing the work of the self-employed. A self-employed worker cannot in fact be forced to do extra hours insofar as he is, by definition, free to organise his own work as he wishes. What is more, it is virtually impossible in practice to control the working time of this group of people.

Thirdly, the overall balance between the advantages and disadvantages of extending the rules on working time to the self-employed is very uncertain, and it is not possible to demonstrate that applying the directive in question to self-employed drivers will bring clear advantages. Lastly, it is very important to point out that the application of working time rules to self-employed drivers is ineffectual and very difficult to achieve, since these drivers do not have to record their working time for salary purposes, not to mention the fact that the administrative costs of applying such rules would be very high.

Fourthly, one aspect where intervention is needed, however, is that of 'false self-employed drivers', that is to say drivers who are formally self-employed, but in reality are not free to organise their own working activity, because they are entirely dependent on a single company that provides their income and their orders. In social terms, they are vulnerable. Now, in theory, they are covered by the directive, but the failure to apply it means that this does not happen in practice. The Commission's proposal is therefore to step up the implementation of the directive and provide 'false' self-employed drivers with the social protection they need.

At a time of economic crisis, to impose an additional administrative and financial burden on small and fragile businesses, which must face the consequences of the recession, would not send a good message. For this reason, in conclusion, the Commission welcomes the amendments tabled by the Group of the European People's Party (Christian Democrats) and European Democrats, the Group of the Alliance of Liberals and Democrats for Europe and the Independence and Democracy Group, which are in line with the Council's common position adopted during the last Transport Council, and, through these amendments, is sending a clear message to the industry: the phenomenon of 'false' self-employed drivers will not be tolerated, and legislators will ensure that the rules are applied throughout Europe.

#### IN THE CHAIR: MRS MORGANTINI

*Vice-President*

**Johannes Blokland**, *draftsman of the opinion of the Committee on Transport and Tourism*. – (NL) Madam President, the moment of truth is fast approaching. Tomorrow afternoon, we shall be voting on the report by Mrs Panayotopoulos-Cassiotou. The rapporteur and I, as draftsman of the opinion of the Committee on Transport and Tourism, share the same perspective on free enterprise, and so together we have signed 10 or so amendments that the Council, too, can accept. I am grateful that Commissioner Tajani can support them.

Tomorrow, we shall first have to deal with the amendment tabled by the Committee on Employment and Social Affairs that seeks to reject the proposal. I am still highly indignant about this amendment. Last week, however, this indignation turned to horror when I saw the position paper of the European trade unions. For fear of a stray Romanian or Bulgarian self-employed driver, it dusts off untruth upon untruth to persuade MEPs to vote against the Commission proposal.



The paper intimates that self-employed drivers work 86-hour weeks. Drivers, both employed and self-employed, are permitted to drive for an average of 45 hours per week in a two-week period, as Commissioner Tajani has also pointed out. Are we to understand, then, that they are spending 41 hours per week working on their businesses? Nor does the paper's argument about road safety hold water. There is no evidence of a correlation between road safety and exempting self-employed drivers from the rules on working time; in fact, the reverse is true.

Incidentally, it is clear from the position paper that the trade unions know full well that their position is extremely tenuous. The environment and the internal market are dragged in kicking and screaming to supposedly demonstrate that we should vote in favour of the rejection proposal, when the Commission's very extensive impact assessment shows that the proposal will actually be beneficial to the functioning of the internal market, the transport sector and the environment. That is why, tomorrow, we must vote against the amendment tabled by the Committee on Employment and Social Affairs that seeks to reject the proposal, and in favour of the rapporteur's amendments. I trust that common sense will prevail during the vote.

Finally, I wish to add that I thought the email Mr Hughes sent last Saturday completely inappropriate. Making politics out of the fatalities of ... *(The President cut off the speaker)*

**Eva-Riitta Siitonen**, *on behalf of the PPE-DE Group.* – (FI) Madam President, ladies and gentlemen, working time restrictions should not extend to self-employed entrepreneurs and drivers, and, fortunately, both the Commission and the Council have reached this conclusion.

In my country, Finland, a restriction on working time would have a very adverse effect on self-employed drivers. Drivers in Finland tend to be small-scale entrepreneurs. Over half own the vehicle they drive. They therefore do everything themselves: they maintain their vehicles and do their own accounts. Self-employed drivers are already bound by the same limits on driving time and compulsory rest periods as drivers who are employed by someone else. This is important for the future. Driving times themselves should not be extended, but if this amendment by the Group of the Greens/European Free Alliance and the Socialist Group in the European Parliament were to enter into force, drivers would not be able to maintain their vehicles or do their accounts during their time off, for example. In any case, how would compliance with such a regulation be monitored?

It is vitally important to aid employment and entrepreneurship during an economic crisis. I hope that everyone will agree with the Commission and the Council of Transport Ministers to keep self-employed drivers outside the scope of regulated working time under this Directive.

**Jan Cremers**, *on behalf of the PSE Group.* – (NL) Madam President, ladies and gentlemen, the Socialist Group in the European Parliament considers the proposal for the revision of the rules on working time in road transport insufficiently well thought out and inconsistent. Poor transposition of and compliance with the legislation cannot be a reason to relax the rules. As the Commission says, legislation can be efficient and effective only if it covers all parties concerned.

In questions to the Commission, I have endeavoured to obtain clarity as to what action the Commission plans to take against the use of 'false' self-employed workers. In this context, the intention that has now been voiced in the Council not only to exclude self-employed drivers from the scope but also to omit to take satisfactory action against 'false' self-employed workers finds no favour with the PSE Group.

The activities of both employed and self-employed drivers are equally relevant to their own and to other people's safety. Making a distinction is out of the question in the eyes of our group. I must support the Commissioner: it is not the first time that self-employed workers, too, have been included in the coordination of safety on construction sites in order to guarantee their own safety and the safety of others.

**Bilyana Ilieva Raeva**, *on behalf of the ALDE group.* – (BG) During its last session of this parliamentary term, Parliament must adopt the directive on the working time of mobile workers. As rapporteur for the Group of the Alliance of Liberals and Democrats for Europe, I think that it is irresponsible of us to support the rejection of the Commission's text in its entirety, as was suggested. We Liberals support and firmly stand behind the need for the tens of thousands of self-employed mobile workers to retain their competitive advantage and the purpose of being self-employed.

The current situation is alarming. The current directive removes a fundamental principle of the free market, namely, entrepreneurship and support for it. It is unacceptable for us to treat those working according to a labour agreement on an equal footing with those who are self-employed. Unlike salaried workers, the

self-employed work on the basis not of a specified number of hours, but of the goods which they handle as well as the number and type of shipments. Including them in the new directive will actually destroy their entrepreneurial drive.

Legislation stipulating the working time for the self-employed would mark a dangerous, unjustified precedent. There is no similar kind of regulation in any other sector. Adopting such a decision would have an adverse impact on the European economy.

The definition of night work is also of great practical significance. At the moment, Member States can define night time themselves. This enables them to maximise the number of working hours for transporting passengers and goods according to the varying daylight. As you know, night time in Finland is different to night time in Italy. Flexibility helps reduce congestion during peak hours, while also reducing the majority of harmful emissions from traffic.

I would finally like to add that the Liberals, supported by the Group of the European People's Party (Christian Democrats) and European Democrats and many other fellow Members, would like to continue the debate on the basic elements of the directive. In other words, we support the flexible, pragmatic position which was approved in the Council and proposed by the European Commission on excluding the self-employed from the directive. I strongly urge you to vote in favour of this.

**Sepp Kusstatscher**, *on behalf of the Verts/ALE Group.* – (DE) Madam President, the concern throughout the world and all the measures currently being taken to combat swine flu, like those taken a few years ago against bird flu and BSE, are completely out of proportion to the lack of consideration given to the much higher number of deaths on the roads. Forty thousand people die every year on the roads of the European Union. Large numbers of people are injured or permanently disabled. All of this is simply accepted, as if it were an act of God.

Everyone knows that a disproportionate number of lorries is involved in serious road accidents. The main causes are speed, overtiredness and alcohol. This directive is a move towards ensuring that drivers do not become overtired. Not only driving times, which are monitored using the tachograph, but also loading and unloading times should now be considered as working time for everyone. This is the right solution. If a driver has been working for several hours before he climbs behind the steering wheel of a 40-tonne truck, he is already tired and will find it difficult to concentrate. For me it is completely incomprehensible that this regulation should only apply to drivers who are employed by others and are not self-employed. The only excuse is that it is more difficult to monitor the working time of self-employed people. This may be true, but does a self-employed driver present a smaller risk behind the steering wheel when he is overtired?

**Stephen Hughes (PSE).** – Madam President, we need to reject this proposal from the Commission for three clear reasons. Firstly, they argue that Regulation (EC) No 561/2006, on driving and rest time, covers everyone and therefore there is no problem excluding the self-employed. This is wrong. Driving time represents only half – on average – of the working time of a driver. Those not covered could indeed end up working 86 hours per week, every week of the year.

Secondly, the hundreds of thousands of drivers driving vehicles of less than 3.5 tonnes are not covered by the Regulation. Worse still, if they are excluded from this directive there will be no limits at all on their working time.

Thirdly, the Commission makes a distinction between self-employed and 'false' self-employed, and says it does this because you cannot inspect or control the working time of the self-employed. If that is so, how will they control the working time of the 'false' self-employed? This is an abdication of responsibility and an open invitation to unscrupulous employers to constantly search for new forms of 'false' self-employment to avoid the law. We need to reject this proposal from the Commission.

**Ville Itälä (PPE-DE).** – (FI) Madam President, firstly I wish to thank Commissioner Tajani for having done a really excellent job and who, in his speech just now, very commendably pointed out that this is not about safety and the number of hours spent driving so much as the number of hours spent working.

We have to respect the fact that in Europe there are small and medium-sized enterprises that do their work and create jobs, and this would be a slap in the face for small-scale entrepreneurs, especially in the current economic situation. Two weeks or so ago we had a fierce debate here on how small and medium-sized enterprises keep the entire European economy going. Now we face the practical issue of whether we should support them or not. What Commissioner Tajani stated here is what we should be monitoring and what we

need to do to ensure that these self-employed drivers can continue working after the hours they have spent driving.

**Antonio Tajani**, *Vice-President of the Commission*. – (IT) Madam President, ladies and gentlemen, I would like to reassure those Members who have expressed concerns regarding the text we are debating. Road safety is definitely not at stake, I repeat, it is one of my priorities to fight to reduce the number of road accidents.

I think we should not confuse working time with driving time. I can well appreciate what you have said: a self-employed worker can work first and then be tired when he gets behind the wheel, but I do not think that a self-employed worker can be controlled in any job. Obviously, the self-employed worker is also aware of what he is doing, he can even load a lorry and wait and rest for two, three, or four hours, and then get back behind the wheel in an excellent condition as regards safety.

It is in fact very difficult to control any kind of self-employed worker, artisan or small entrepreneur. What is more, these are the men and women who represent the backbone of the EU economy.

Having said this, we are concerned with guaranteeing the health and safety of employees and of those workers who appear to be self-employed, but for all intents and purposes are employees. That is why the Commission – and I think the rapporteur shares our position on this – wants to bring the activities of ‘false’ self-employed workers under legislative control too.

So this is, I believe, an important signal, this legislation meets real requirements, and I think it right to emphasise again how important it is to make further progress in this area. That is why I would ask the Socialist Group in the European Parliament and the Group of the Greens/European Free Alliance to reflect on the comments that have been made and to understand that, as far as the Commission is concerned, road safety is and will remain a priority, but that this legislation does not cover that sector, rather it is aimed at better regulating the working time above all of road transport workers, and to assimilate the ‘false self-employed’ to ‘employees’ because in reality they are not self-employed workers, but *de facto* employees.

So then, may I reassure again all those who have expressed concerns, because I believe that the text that may be adopted is a good text, heading in the general direction of the interests of European citizens.

**Marie Panayotopoulos-Cassiotou**, *rapporteur*. – (EL) Madam President, I thank the Commissioner for his clear speech and his *ex-post* clarifications, by which I mean his assurance to the Members that his main objective is road safety and, at the same time, to safeguard the competitiveness of the European economy and support small and medium-sized enterprises. I thank all my fellow Members for their views and I would point out that this is precisely the dialogue that we want to leave open by voting against Amendment 54 rejecting the Commission’s proposal. I therefore call on all my fellow Members to reject Amendment 54, so that the dialogue remains open and we can help workers who are being exploited and who claim to be ‘false’ self-employed persons. We want to help improve employment in road transport with full safeguarding of road safety under the regulation that covers everyone and of working times under the directive before us.

I should like to remind the Members that I have sent them an article from a German newspaper which makes clear from the examples given that the risk during driving is not from excessive work, but from poor use of the time which each person has at his disposal, regardless of whether he is employed or self-employed, which is, in fact, irrelevant. What is important is how each person takes responsibility for his actions and drives in such a way as to behave as a mature person who is conscious of his obligations within society as a whole. We shall not achieve this by raising obstacles to work. In referring to the building industry, Mr Cremers revealed the intention of all those who are supporting these views in the run-up to the elections.

**President**. – The debate is closed.

The vote will take place on Tuesday 5 May 2009.

## **20. Parliament’s estimates of revenue and expenditure for the financial year 2010 (debate)**

**President**. – The next item is the report (A6-0275/2009) by Mr Maňka, on behalf of the Committee on Budgets, on the estimates of revenue and expenditure of Parliament for the financial year 2010 (2009/2006(BUD)).

**Vladimír Maňka**, *rapporteur*. – (SK) In my meetings with European Parliament secretary-general Klaus Welle I noted from the outset the efforts he made to resolve problems. I applaud his attempt to optimise the work of the European Parliament's administration, which is an institution employing 6 000 people. I noted a similar commitment and positive approach in negotiations with representatives of the European Parliament's various directorates-general.

In some areas savings have already been identified and improvements proposed. One example of this would be the action plan of the Directorate-General for the Presidency relating to security services, which can bring savings in Brussels, Strasbourg and Luxembourg amounting to EUR 2.6 million a year with no negative impact on security and protection.

Most expenditure items and main projects in the European Parliament budget are of a multiannual nature. I firmly believe that if we improve medium-term budget planning and increase its transparency we will achieve efficiencies. Ladies and gentlemen, the report I am presenting today, which has been approved by the Committee on Budgets, clearly shows that we would like to leave more room for manoeuvre for the new Parliament. If the Committee on Budgets identified savings or reduced certain items we did not begin working on them at this stage just in order to appear tough or to launch a round of in-fighting with the administration and the Presidency on one side and the Committee on Budgets on the other. Our common aim is to obtain a professional and comprehensive summary of the issue and based on this to take the right decision. In the area of workforce planning the Committee on Budgets is bearing in mind proposals and changes to the structure of services and the workforce plan submitted by the Presidency. When we have a summary of all the requirements arising from the studies, the Committee will be ready to consider the whole package of requirements carefully.

Last week I met Swedish Finance Ministry secretary of state Hans Lindblad, who will represent the Swedish Presidency of the EU in the area of finance, together with other officials from the Swedish permanent representation in Brussels and the Swedish Finance Ministry. I was promised close cooperation on rationalising European institution budgets. The Swedish Presidency representatives placed special emphasis on building policy, which is also one of our priorities. Expenditure on purchasing and renting buildings is one of the main administrative cost items of EU institutions. Just over three years ago the institutions were using total space in excess of 2 million square metres. We therefore decided that we needed a joint policy in the area of buildings, better inter-institutional cooperation, better coordination of planning, a review into consolidating office space in certain areas and better use of public tenders. I would therefore like to applaud the secretary-general's promise that in the new election period he will submit a medium-term building strategy plan proposal very quickly, so that it will be available to MEPs ahead of the first reading in the autumn in order for them to approve budget decisions.

We can achieve annual savings of millions of euros by improving cooperation between European institutions. I believe that cooperation with the Inter-Institutional Working Group on multilingualism will enable us to make better use of free capacity in this area. Next year we should have available the study into the Euramis translation tool, the full and automatic use of which will probably bring about a revolution in the area of translations and in cooperation in the area of translations. I firmly believe that this tool will bring greater efficiency and financial savings in this area in the next two years, reducing dependency on external services.

**Margaritis Schinas**, *on behalf of the PPE-DE Group*. – (EL) Madam President, today we are deciding Parliament's budget for 2010 at a particularly crucial period in time which is defined, firstly, by what we all hope will be the entry into force of the Treaty of Lisbon; secondly, by the major economic crisis which has hit the European economy and, thirdly, by the new regulations for parliamentarians and parliamentary assistants. All these elements are integral elements of the European Parliament budget for 2010 and I believe that, as parliamentarians, we must position accurately within these parameters, not with experimentation, eccentricities and superfluous expenditure, but reasonably and in keeping with the criteria which society itself expects of us.

I therefore believe that we are making a new start because, in the midst of the crisis, the European Parliament is setting a good example by keeping its expenditure for 2010 at very realistic, I would even say low levels. We are keeping our budget below the 20% limit on appropriations for administrative costs. We have reduced our budget for 2010 by EUR 6.5 million compared with the Bureau's initial estimates and, if we look at the overall figures compared with last year's budget, we can see that, despite all the new demands implied by the new rules for parliamentarians and parliamentary assistants, we have what I consider to be an exceptionally reasonable increase of well below 4%.

The parliamentary Group of the European People's Party (Christian Democrats) and European Democrats, for which I have the honour of acting as rapporteur on this issue, set a major objective for the 2010 budget at the start of the procedure. We want to concentrate Parliament's resources on the sectors for which it really does have competence and power, which are the sectors connected to legislation. We want to stop there being armies of people concerning themselves with things for which Parliament has no voice and to stop having few people and resources where Parliament really can make a difference through legislation. We therefore believe, and we shall debate this again at first reading, that the initial expenditure reflects this priority of ours and we agree with the rapporteur's emphasis on the question of multilingualism and buildings, issues to which we have always given serious priority, but in terms of the emphasis on legislation.

I would like to finish as I began, by saying that this is not the time for eccentricities and needless spending. It is the time for tightening belts, for seriousness and for concentrating on necessities. As regards the three major multiannual programmes of Web TV, the Museum of European History and the Visitors' Centre in particular, we want express guarantees for their progress, so that the budget for 2010 can continue to support them, but always on the basis of a philosophy of proper, serious and assiduous control.

**Zbigniew Krzysztof Kuźmiuk**, *on behalf of the UEN Group*. – (PL) Madam President, speaking in the debate on Parliament's estimates of revenue and expenditure for 2010 on behalf of the Union for Europe of the Nations Group I should like to draw attention to three matters. Firstly, we should support the proposal of the rapporteur to adopt for the present the draft of Parliament's estimates of revenue and expenditure for 2010 in the form adopted by the Bureau of the European Parliament in April this year. The final budget decisions should be left to the next Parliament by committing it to analyse particular budget items again in September 2009.

Secondly, we should also evaluate positively the fact that the currently adopted estimates anticipate a growth in expenditure of only 2.72%, which means that at this stage the 4% rise in expenditure which was proposed earlier will not be needed, and also that the new Parliament will have a lot of room for manoeuvre in this area in the autumn this year.

Thirdly and finally, I would also like to give strong support to the rapporteur's proposal in the area of multilingualism, and in particular to ensure that all MEPs have equal access to translation and interpretation services. Also worthy of support are the items concerning information and communication technology for Parliament, and in particular the plans to enable the best use of these resources.

**Vladimír Maňka**, *rapporteur*. – (SK) I would like to conclude today's debate by thanking both of my colleagues for their opinions. I would also like to thank the representatives of all the institutions, including the European Parliament, with whom we have had dozens of discussions over the past three months concerning the preparation of their budgets. I would like to thank the Committee on Budgets Chairman Mr Böge, the shadow rapporteurs and coordinators of the political groups, my colleagues and the advisors and employees of the Budget Committee who took part in most of the discussions. It is thanks to all of you that we managed to find a joint approach and a joint solution in most cases.

On account of the European Parliament elections at the beginning of June we had very little time available for preparing and discussing budget proposals, and even less time to look for compromises. Despite this we managed to find them and I can now state that the results of our cooperation will have a positive effect on the work of the European Parliament. Meanwhile in the preparations for the 2010 budget we are seeing the greatest changes to European Parliament structures in the last 10 to 12 years. It is a great challenge for the European Parliament management and for all of us. I believe that at the end of the year we will be able to say that together we have paved the way to greater efficiency in the work of the European Parliament as well as in other European institutions.

**President**. – The debate is closed.

The vote will take place on Tuesday 5 May 2009.

## 21. Trade in seal products (debate)

**President**. – The next item is the report (A6-0118/2009) by Mrs Wallis, on behalf of the Committee on the Internal Market and Consumer Protection, on the proposal for a regulation of the European Parliament and of the Council concerning trade in seal products (COM(2008)0469 – C6-0295/2008 – 2008/0160(COD)).

**Diana Wallis, rapporteur.** – Madam President, we have a compromise; we possibly have before us tomorrow a first-reading agreement. For my part, as rapporteur in this Parliament, I would say that this has been a very difficult file, a very difficult journey.

However, we have arrived at a position where, I hope, we will respect the wishes of those Members of Parliament who signed the written declaration on this subject and we will have respected the wishes of many citizens in many of our countries across the EU who tell us that they do not like what they see of the commercial seal hunt and that they wish to have no association with the trade that results from that hunt. We have respected that wish; we have dealt solely with what we can deal with within the confines of Europe's internal market: the circulation of goods in the market that arise from the commercial hunt. Following this piece of legislation – if it goes through tomorrow – our consumers should be assured that nothing from the commercial hunt will be sold on Europe's market.

But, of course, there are exceptions. Seals are very beautiful marine animals – in fact, I have realised during this process that they have great PR – but to some they are the rats of the sea. That is how they are perceived by many fishermen: an adult seal gets through an enormous amount of fish on a daily basis. Therefore, there will remain the need for seals to be hunted to ensure the sustainability of fisheries in some area.

But what we have not done here is to regulate hunting. If people in any of our Member States wish to hunt, they can still continue to hunt. What they cannot do is take commercial gain from the results of that hunt. But it should be the case that the results of the hunt can be used, and I hope particularly that those parts of seals that can be used by the medical community will be able to be used.

The most difficult aspect of all of this has been the place in it of the Arctic traditional communities – the indigenous people of the Arctic. We say we have an exception for them, but how will being associated with a banned product actually affect their lifestyle and their economy? The Arctic is not some sort of theme park or museum: it is a living, breathing community with its own modern economy and at the heart of that is what is taken from the seas. I hope that those communities will be able to continue to exist in the way that they always have. But I have my doubts, and I know that those doubts were behind the decision of the Arctic Council last week to refuse to give the EU permanent observer status.

This file has been, for me, a conundrum. I have wrestled with the clash of liberties, I have respected the vote in committee and I have tried to respect the views of those I represent at home. But I share only this with you today: I had a delegation from the Nunavut community come to see me. After our exchange of views, we were all in tears. I hope the derogation works. I will support this package tomorrow but I hope it will turn out to have been the right thing to do.

**Stavros Dimas, Member of the Commission.** – (EL) Madam President, first I all, I should like to thank the rapporteur, Mrs Wallis, and the draftsmen of the opinions, Mr Martin, Mr Brepoels and Mrs Mathieu, for their exceptional work. In particular, I should like to thank the chairman of the Committee on Internal Market and Consumer Protection, Mrs McCarthy, for her positive contribution as regards this specific proposal.

The fact that agreement was reached at first reading demonstrates the political will of the Community institutions to deal promptly with the two main problems relating to the trade in seal products, namely the fragmentation of the internal market and the need to safeguard animal welfare. This particular agreement contains three decisive elements: the first relates to the harmonisation of the internal market and is a ban on the trade in seal products on the European Union market. It will apply both to products produced here and to imported products. As you no doubt know, seals are hunted both inside and outside the Community. They are used to produce products such as meat, oil, blubber and products from their organs, fur and skin. These products are traded on various markets, including the Community market. For some of these products, such as Omega 3 capsules or tanned skins or seal furs, it is difficult, if not impossible for consumers to distinguish them from similar products which do not come from seals. Seal hunting and the way it is carried out has resulted in the expression of serious reaction and concern by the public and by numerous governments which are particularly enlightened about animal welfare. These concerns are caused by the way in which seals are hunted, the methods used to kill them and the pain which they cause. The public's indignation is clear from its massive participation in the relevant public dialogue, but it is also eloquently expressed in the very large number of letters and petitions which I have received over the past two years. The citizens can now be sure that seal products will no longer be available on the market.

A second important element in the proposal is the logical exemption of Inuit and other indigenous communities. The aim is not to touch the basic economic and social *acquis* of these communities, which

have traditionally depended on seal hunting. It should be noted that this sort of hunting is an historical element of their culture and cultural identity and is a source of income which contributes to their survival.

The third element is the exemption for small-scale hunting. Thus fishermen engaged in incidental seal hunting will be allowed, but only for the purpose of sustainable management of marine resources, to place seal products on the market on a not-for-profit basis, in order to cover their related expenses. In accordance with the fundamental principle of this regulation, there must be no commercial aspect to this specific activity. The Commission will approve detailed application measures clarifying how the above two exemptions are to be applied under the comitology procedure and following scrutiny by Parliament.

I hope that Parliament, like the Council and the Commission, will support this specific compromise package overall. The text in question makes provision for the harmonisation of the internal market and, at the same time, addresses the concerns of European citizens about animal welfare in connection with seal hunting. The European Commission is in a position to accept in full the compromise package, in order to reach agreement on the regulation in question at first reading.

**Frieda Brepoels**, *draftsman of the opinion of the Committee on the Environment, Public Health and Food Safety*. – (NL) Madam President, Commissioner, you will appreciate that I am extremely pleased that we are able to vote on this dossier at the last minute, as many citizens, as well as Parliament, have been calling for measures to combat the cruel practice of commercial seal hunting for many years.

It was not easy to find the right approach, as Europe itself does not have the competence to ban this hunting. Therefore, I am obliged to the Commission for presenting a proposal to Parliament, although Parliament did think that the proposal needed tightening up.

As draftsman of the opinion of the Committee on the Environment, Public Health and Food Safety, I am much obliged to my colleagues from the various political groups, therefore, for immediately supporting my proposal to opt for a total trade ban on seal products with only one exception: the hunts traditionally conducted by Inuit communities. In doing so, the committee decided against the Commission's original proposal, which made several exceptions, and also against a labelling scheme, which we believe would prove impossible to monitor.

I should also like to thank the Czech Presidency for continuing to work towards an agreement. I can imagine that the relevant negotiations with the Member States were not always plain sailing. As well as my fellow MEPs, I should like to thank the various non-governmental organisations (NGOs) that played a constructive role as pressure groups right through the process and that now also expressly support the compromise. Compromises are always a matter of give and take, of course, yet I believe that this text meets the requirements of all the parties concerned.

Finally, I should like to emphasise, for the sake of our citizens, that the compromise will indeed have an impact on commercial hunting in countries such as Canada. In anticipation of a possible trade ban, the demand for seal fur skins has already fallen this year and the price has halved compared to last year. As soon as the ban is introduced, therefore, it will undoubtedly deal a severe blow to this hunting and to the international trade in seal products.

Therefore, I am delighted with the result, and hope for strong support from my fellow Members in tomorrow's vote.

**Véronique Mathieu**, *draftsman of the opinion of the Committee on Agriculture and Rural Development*. – (FR) Madam President, I am not of the same opinion as my fellow Members, nor as Mr D ~~ma~~ because I can remember the opinion of the legal adviser to the Council. I can also remember the opinion of the legal adviser to Parliament. Both these advisers informed us that the legal basis used was wrong. That is what I remember.

Do not forget, Mr D ~~ma~~ that you are banning the products of seal hunting, without replacing them with anything, which is not legal. You should realise that the Canadians are well aware of this and intend to exercise their right of appeal to the World Trade Organization. They are not going to be deprived of these products, and you cannot stop them. Personally, I think they are absolutely right in this respect. The poor compromise – in my opinion this compromise is very poor – that some of my fellow Members will vote for tomorrow – without me, because I will vote against – is being put to the vote on the eve of the EU-Canada Summit. The European Union is virtually declaring war on our Canadian friends. I hope that my fellow Members realise exactly what they are doing.

I must also say to my fellow Members, and to Mr D ~~mas~~ that they are going to have a great electoral campaign on the back of the seals and on the back of the Canadians, because we are solving nothing at all in terms of seal hunting. We are simply relocating the problem. You said yourself, Mr D ~~mas~~ that you are not banning seal hunting. You are potentially relocating the problem to China or to other countries, which will be able to accept these products. You have solved nothing.

I therefore feel that this compromise is poor. I feel that the problem has been swept under the carpet, that nothing has been solved and that there is really nothing of which to be proud. There is also nothing to be proud of when you look at the fur price among the Inuits, which is falling. The text has not yet been voted on, the compromise has not been adopted, and yet these people are suffering great economic misery, because of us. I can see no self-satisfaction in that.

**Malcolm Harbour**, *on behalf of the PPE-DE Group*. – Madam President, as the coordinator for my group on the Committee on the Internal Market and Consumer Protection, I signed the compromise text and believe I was right to do so but, as Diana Wallis has said, this has been a very difficult dossier because of the difficulties of balancing different views.

You have already heard from two members of my group who have differing views on this and I think you will see tomorrow that the position of our group will be against this – unless some of the amendments that my colleagues have proposed are voted through. There will, however, be many – including myself – who will vote in favour because, having taken that position, I feel morally obliged to do so.

I just want to pick up on some of the crucial issues. First of all, this is a call for action. What people have indicated so far is that this is the beginning of a process and not an end. The issue is the inhumane way in which seals are being killed and the inability of professional hunters to deal with that. The Canadian Government has to reflect on that as well. There are plenty of review clauses built in here to ensure this works, but I very much echo what Diana Wallis says that the exemptions were crucial for the compromise.

The exemptions are well balanced because they reflect, first of all, the importance of supporting traditional hunting in communities. Diana Wallis is right in saying that has to work, and that means that products from those communities need to be on sale and need to be presented in an appropriate way. Secondly, because of the importance of sustainable marine resources and how that issue is going to be dealt with.

We have a compromise on the table. I think European citizens want us to endorse it, but this Parliament is also going to have to keep this deeply under review from now on.

**Arlene McCarthy**, *on behalf of the PSE Group*. – Madam President, I think we are forgetting that it was this Parliament which first took up the campaign for an EU-wide ban on the cruel trade in seal products. In 2006 a written declaration calling for this ban was overwhelmingly backed by Members – receiving 425 signatures – with studies by veterinary experts clearly showing that seals are killed with terrible suffering, often skinned whilst still conscious. The public no longer tolerate the trade and we as their representatives have the power to end it. Moreover, our vote tomorrow will be a decisive step forward in the global campaign to ban the trade.

The USA has had a ban for many years. Mexico has banned the trade. In Europe we already have national bans in Belgium, the Netherlands, Luxembourg and Italy; Germany and the UK are considering ways to ban the trade. Bans are now in place in Russia. Hong Kong is planning a ban. This is a political issue that now has its time. After a 40-year campaign against the trade, Europe has the chance to introduce a ban in all 27 states.

For the Committee on Internal Market and Consumer Protection it is not the first time we have taken up citizens' concern to end the cruel trade. Parliament has the power to deliver for citizens and the Internal Market Committee was determined to go for a strong ban whilst securing exemption for traditional Inuit hunting. The committee rejected the Commission's mixed proposal for a partial ban and labelling; the committee rejected Mrs Wallis's proposal for a labelling option only. Why? Because citizens would have condemned this half-hearted gesture which would have allowed the cruel slaughter to continue. The public have demonstrated in numerous polls across European countries that they want an end to the trade: 75% of people polled in the UK want an end; 80% in Austria, over 90% in France and the Netherlands. Even in those countries in the EU where a small amount of traditional seal hunting takes place, the trade is not supported by the public, with 70% against in Sweden. A clear majority of Canadians do not support their country's hunt.



Furthermore 86% of Canadian people polled believed the EU should be free to choose to ban these products. I have here a letter from a Canadian senator written to President Pöttering saying: 'Your vote to ban the trade in seal products will help the vast majority of Canadians who watched in admiration as the Russian Federation ended its bloody seal slaughter last month to force their politicians to look beyond political expediency to what is right and to end this inhumane hunt once and for all. On behalf of the majority of Canadians who are opposed to the hunt, thank you for the leadership you are taking on this issue. It is much appreciated.'

This year 50 000 seals have been slaughtered in the Canadian hunt compared to 220 000 last year. That means that we as citizens now have the opportunity to ban this cruel trade. I know that this will be applauded by the citizens of Europe. I hope that Parliament will tomorrow vote to back the Internal Market Committee's proposal for a ban in seal trade products.

**Toine Manders**, *on behalf of the ALDE Group*. – (NL) Madam President, I have signed the compromise as coordinator for the Group of the Alliance of Liberals and Democrats for Europe in the Committee on Internal Market and Consumer Protection. There are differences of opinion in our group, too, as Mr Harbour said about his, but this just goes to show the sensitivity of this issue.

In a democracy, elected representatives must listen to the public, and the days have gone when animals need be cruelly slaughtered to obtain commercial products. It is absolutely not our intention to stipulate how hunting is to be carried out; we do not intend to intervene in game management. What we do want is to end the trade in animals that have been slaughtered inhumanely.

Indeed, I think this is the message sent out by this compromise. I think it is good that traditional communities have been taken into consideration by means of an exemption, and also that consumers or tourists importing products they have bought as souvenirs are to be spared a witch hunt. This would not be a good course of action, nor would it befit today's European Union of freedom.

Since we want information displayed on all products, it might be a good thing to simply label the products as containing seal parts so that consumers are able to choose, as they are often unaware of this as things stand. Better information is required, as consumers should be able to make a more informed choice.

It might be a good idea to support the indigenous traditional communities by taking measures enabling them to develop alternative economies. I thank you, Madam President, and I hope that we adopt this compromise tomorrow by a substantial majority.

**Leopold Józef Rutowicz**, *on behalf of the UEN Group*. – (PL) Madam President, cases of the cruel slaughter of seals are part of the phenomenon of poaching, which, unfortunately, we encounter fairly often. Poachers kill marine and forest animals and many species of fish, and do not observe any principles, destroying populations and causing them suffering. In the countries of the European Union and in Canada appropriate legislation exists, and there are also appropriate services whose role is to ensure that this legislation is observed.

One way to give very helpful support to these services would be for ordinary people to help in exposing and detecting poachers. The role of the state should be to ensure that animals can live in good physical and emotional condition and in harmony with the environment, and also to ensure that illegally obtained skins and meat from wild animals, including seals, do not reach the market, and that such trade is severely punished. The draft regulation of the European Parliament and of the Council is a document which reconciles the interests of all parties in the area of trade in seal skins.

**Heide Rühle**, *on behalf of the Verts/ALE Group*. – (DE) Madam President, I also welcome the agreement on behalf of our group and we will vote in favour of it tomorrow. We are meeting the wishes of the many citizens who have asked us in countless letters and e-mails to take action in this area. We are, of course, also following Parliament's written statement which clearly demanded the ban.

I am rather surprised by the previous speaker from the Committee on Agriculture and Rural Development. I would be interested to know whether she really was speaking on behalf of the committee or only on her own behalf. In any case, I would like to state quite clearly that there definitely is a legal basis for this. For example, there is a ban on the trade in dog and cat skins, which came into force at the beginning of this year. This makes it very clear that there is a legal foundation for what we are doing. In addition, we already have a distinct distortion of the internal market, because at least five Member States have already implemented a ban and others are planning to do so. This is why the European Union must act in order to follow up on this distortion of the internal market.

There are foundations for our actions. There are legal foundations for our actions and internal market foundations for our actions. Once again I would like to emphasise this very clearly. As far as the exceptions are concerned, I would also like to say clearly that the markets for the Inuits collapsed some years ago. The Inuits explained this during the consultation. We invited them to speak before the committee and they explicitly said that the markets had already collapsed before we took action. If the Inuits want to continue selling these products, then they can only do this if it is quite clear that the products have nothing to do with the usual method of hunting seals. Only if a clear distinction is made will the Inuits have the opportunity to sell anything.

**Kartika Tamara Liotard**, *on behalf of the GUE/NGL Group*. – (NL) Madam President, I advocate a total ban on the import of seal fur skins. Each year, a magnificent spectacle of nature becomes the setting for a bloody, gruesome display of pain and suffering, with baby seals as young as 12 days' old clubbed to death or shot down. This slaughter is carried out for the benefit of the market and of big business, without any store being set by animal welfare, and this really fills me with horror.

We cannot want to import this abomination into the EU. Indeed, many EU citizens do not, and they support a total ban on the import of seal fur skins. In the Netherlands, we have fought hard for such a ban, and have succeeded. Adopting the Commission proposal in its original form would undermine the result achieved in the Netherlands.

However, Parliament's report leads me to conclude that this House has reached the point of accepting a total ban on seal fur skins. I support such a ban, and I call on all the Members of this House, and also the Commission, to follow suit.

**Hélène Goudin**, *on behalf of the IND/DEM Group*. – (SV) Madam President, despite the fact that the proposed legislation that we are discussing is about the trade in seal products, the discussions have tended instead to revolve around seal hunting and then primarily outside the EU. The slaughter of seals in the way that we have seen pictures of from countries outside the EU is terrible and should not be allowed to occur.

However, we should make a distinction between hunting and slaughter. Seal hunting occurs in Sweden, but it is controlled protective hunting. No clubs or cudgels are used; guns are used instead. The whole process is surrounded by strict rules and it would be a very poor way of managing natural resources if the animal were not permitted to be used once it had been shot. The compromise that has now been proposed is better than the original motion. However, I have some concerns regarding how some parts of the legislation may be interpreted and that it would have negative consequences for Sweden and our Nordic neighbours. Let us hope that I am wrong.

**Jan Cremers (PSE)**. – (NL) Madam President, Commissioner, ladies and gentlemen, I should like to start by thanking the rapporteur for her hard work on this dossier. Following this House's call for an EU-wide ban on seal products back in 2006, which Mrs McCarthy mentioned, I am delighted that a compromise has now been struck with the Council that does justice to the wishes of this House.

Approximately 900 000 seals meet a gruesome death every year in the name of commercial seal hunting. This is not only gruesome but also totally senseless. As far as the Socialist Group in the European Parliament was concerned, it was clear from the outset that the Commission proposal did not go far enough. The generous derogations in the proposal would have been impossible to monitor given the widespread nature of the hunting over a period of 10 days each year. Monitoring capacities are insufficient, and often the governments concerned are unwilling.

Our group saw it as crucial to substantially curtail the scope for exceptions in the negotiations, and I am delighted with the present result – a trade ban in which this objective has largely been realised. The PSE Group also considers it important to intervene as little as possible in the traditional livelihoods of indigenous peoples. The derogation for the Inuit and other indigenous peoples that forms part of the compromise is in line with the wishes of our group.

Although we cannot oblige non-EU countries to stop this seal hunting, we hope that the trade in seal products will become much less lucrative and the hunting itself will be reduced – and hopefully, in due course, completely stopped. I am delighted with the result achieved, therefore.

**Peter Šťastný (PPE-DE)**. – Madam President, this final proposal on seal hunting is wholly unacceptable as it grossly interferes with other countries' affairs. Yet these countries play by the rules and all they are trying to achieve is to manage natural resources and provide employment for their people.

This proposal destroys people's lives and their communities in remote regions. It destroys business opportunities on both sides of the Atlantic and seriously harms good relations with important trade and strategic global partners. Furthermore this proposal violates WTO rules.

As Members of Parliament we have a duty to protect people and create an environment for employment opportunities. With this ban we are failing in both areas. Slapping a ban on overpopulated seals is madness and a complete failure of our values. I say to all MEPs: please stop this disaster and vote against this proposal.

**Carl Schlyter (Verts/ALE).** – (SV) Madam President, I am very pleased indeed that we have finally reached this point. To start with many people said it was impossible, that it could not be done. It could be done. We are now supporting the citizens of Canada who want to stop being ashamed of their country's behaviour on the ice floes.

For thirty years we have attempted to control and to regulate this hunting. This has not been achieved in either Norway or Canada. The rules are not complied with out on the ice. It is time to give up on the idea that it is possible to make this industrial scale commercial slaughter in any way humane.

We have the work of non-governmental organisations to thank for today's decision, and the majority of Europe's citizens who want this ban in place. It is a victory for common sense, it is a victory for humanitarianism, it is a victory for democracy and not least it is a victory for all the seals that will be allowed to grow up without being clubbed and slaughtered simply for the sake of human vanity. I would like to thank all my fellow Members who have made this possible.

**Christian Rovsing (PPE-DE).** - (DA) Madam President, I want to say that I find this matter unreasonable, and when I speak now it is solely on behalf of Greenland, which is part of the Kingdom of Denmark. There are a few tiny, remote settlements in the far north with a population of just 10-20 people who live from hunting seals. If we take away their livelihood, they will have no chance of economic survival. Neither can we find them alternative employment. It is hundreds of kilometres to the next settlement, and we should be grateful that they are there, because it enables us to maintain Greenland as part of the Kingdom of Denmark.

The Greenlanders shoot the seals. Who has anything against that? No one! If they are unable to shoot enough seals, then there will be no fish for them to catch. Consequently, what is being done here is a disaster for Greenland. This matter has not been discussed thoroughly enough and no account has been taken of the poor people whose livelihood this will take away without offering them anything else in its place. Treating poor people like this is beneath us.

**Caroline Lucas (Verts/ALE).** - Madam President, as one of the other co-sponsors of the original written declaration nearly three years ago, which called for this ban, I should like to congratulate everyone who has worked to bring this draft proposal forward. Four hundred and twenty-five Members of this House signed that declaration, reflecting the strength of feeling about the issue, not only among MEPs but also among our constituents.

Today, nearly one million seals are slaughtered annually in commercial seal kills around the world, and when we vote on this package tomorrow we will be helping to end one of the most vile examples of animal cruelty.

I am very glad that compromises, like the proposed labelling system, have been strongly rejected, so that we can fully meet the demands of millions of European citizens.

A positive vote will be a vote for ending cruelty. It will also be a vote and a victory for all of us who have refused to take 'no' for an answer. I well remember many meetings with Commission officials when we were told that a ban would be simply impossible. Well, this just shows that when we can galvanise sufficient political will – and I pay tribute to the NGOs which have helped us to do so – then impossible things become possible, and I am delighted that they do.

**Avril Doyle (PPE-DE).** - Madam President, this has been a difficult debate, often emotional, with the heart ruling the head on many occasions. I have great sympathy with what my colleague Christian Rovsing has just said in terms of the communities he spoke for, but I will be supporting the compromise tomorrow. However, I need an assurance from the Commissioner. Perhaps I could ask a direct question through the chair to the Commissioner.

Commissioner, if the compromise goes through tomorrow, could you assure me that it will still be possible to use seal tissue for medical research and for bioprosthetic purposes, as is currently the practice in parts of the world? For example, great progress has been made in the survival and quality of life of cardiac patients

by using the aortic, pulmonary and pericardial tissue of harp seals, the assumption being that they are sustainably hunted or killed and not in a cruel way. I would like assurances on ongoing medical research and bioprosthetic use of products from seals in the context of the compromise.

**Marios Matsakis (ALDE).** - Madam President, I will also support the compromise but I am not at all sure that we are doing the right thing because the issue at hand is not whether we kill seals or whether the seals are in danger of not surviving; these issues have been cleared up.

The issue is whether they are killed humanely or not. And of course in our daily existence we know there are hundreds of thousands of animals that we are happy to have killed, either to eat them or to use their products in other ways. We are happy to have fish dying after hours of suffering on hooks and in nets and we do not complain about that. So why are we complaining about the seals?

Well, because they are beautiful animals and because watching their blood being spilt on white ice is not very nice. So are we voting and are we deciding with our hearts rather than with our brains and our heads on this? I just wonder.

**Stavros Dimas, Member of the Commission.** – Madam President, I would like to thank all the speakers in tonight's discussion for their contributions. I am very pleased that it is possible tonight to reach a first-reading agreement on this highly sensitive file.

Since the European Parliament raised this issue about two years ago, the Commission has conducted extensive preparatory work in order to get a full picture of the situation and share it with the general public. Our obligation to take full account of the concerns expressed by European Union citizens, as well as the need to harmonise the internal market, were key issues which needed to be addressed by this legislation.

When the regulation enters into force, citizens can be reassured that seal products derived from commercial hunting activities will no longer be found on the European Union market.

The Inuit exemption will ensure that the interests of Inuit and other indigenous communities traditionally engaged in the hunting of seals will not be adversely affected.

Regarding the issue that Mrs Doyle referred to, this will be dealt with in the implementing measures.

In conclusion, I believe that, by adopting this regulation, we will contribute to raising awareness and to upholding high standards of animal welfare in the European Union.

I would, therefore, like to stress again the importance of reaching first-reading agreement on an issue which is so important to European Union citizens. I therefore urge you to support the compromise package in full, without amendments, to ensure a first-reading agreement.

Once again, I would like to thank the rapporteur, Ms Wallis, and Ms Brepoels and all those who worked towards reaching the compromise agreement.

**Diana Wallis, rapporteur.** – Madam President, I think the debate tonight well illustrates the difficulty of this issue, and it also illustrates, therefore, how wonderful it is that we have been able to reach some form of compromise. As with all compromises, somebody or everybody will perhaps be a little disappointed by something or other.

I guess what I wanted to emphasise is what we have tried to say throughout our negotiations: that what we have dealt with is what the internal market can deal with, and that is the trade. We cannot deal with the hunting from here, not the hunting that occurs in third countries. It has been difficult; many of us still have questions about how things will be implemented and, Commissioner, I am grateful for the reassurance you have given with regard to how the indigenous communities will be dealt with: that will be something which will be important to many and something that we will have to watch very carefully.

I think many of us still have concerns about the legality – and there has been much spoken about this either at WTO level or within our own internal market rules. Suffice it to say at this moment that I would just wish to say thank you to the lawyers of all three institutions who have worked to get us where we are today. I suspect they will have more work to do in the future but that, as I have said, is for another day.

So there we are: we will see what the vote brings tomorrow. I believe that it is a compromise that is worthy of our support, a compromise that honours the original written declaration and honours the views of European citizens. I hope that they will not be disappointed if they see that this does, in any way, infringe

the rights of others elsewhere. It is that that has bothered me throughout the most, and I hope that you will do your best, Commissioner, to make sure that those small and fragile communities are protected.

**President.** – The debate is closed.

The vote will take place on Tuesday 5 May 2009.

#### **Written statements (Rule 142)**

**Filip Kaczmarek (PPE-DE), in writing.** – (PL) Ladies and gentlemen, I endorse the Wallis report. I endorse the draft regulation which has been agreed with the Member States, on the grounds of which a ban on the trade in seal products will be introduced. I think that exceptions should be possible only after conditions have been met on the methods used to kill the seals. We should not ban the hunts traditionally conducted by Inuit communities.

Thanks to the regulation, trade in seal products will be conducted under uniform conditions across the EU. The regulation has been supported by many EU citizens, who are sensitive to the issue of animal welfare. We all know that seals are often killed under conditions in which the animals, which are mammals and capable of sensation, experience terrible pain and suffering. Now we have the opportunity to end that suffering. Let us do this. The ban will mean that goods made from the meat, fat and skins of seals, such as bags, shoes, hats and gloves, will disappear from the common market. Marketing of some pharmaceutical products made from seals, such as dietary supplements, will not be allowed. Thank you very much.

**Lasse Lehtinen (PSE), in writing.** – (FI) It is understandable that the EU should try to make goodwill gestures towards its citizens prior to the elections, but this time the Commission is treading on thin ice. If Europe attempts to ban or restrict the traditions of other democratic countries, goodwill might just come back later and slap it in the face. I await the day when the United States of America or Australia wake up to the fact that there is bullfighting in Spain and elk hunting in Finland.

Each year in my country, Finland, fishermen catch a few hundred seals, because the seal population has soared and will soon threaten fish stocks in the Baltic Sea. The compromise reached with the Council means that fishermen can carry on as before as long as they do not make a profit. It is a principle of mine not to support laws compliance with which cannot be monitored, but the compromise is definitely an improvement on the result of the Committee's vote.

## **22. Protection of animals used for scientific purposes (debate)**

**President.** – The next item is the report (A6-0240/2009) by Mr Parish, on behalf of the Committee on Agriculture and Rural Development, on the proposal for a directive of the European Parliament and of the Council on the protection of animals used for scientific purposes (COM(2008)0543 – C6-0391/2008 – 2008/0211(COD)).

**Neil Parish, rapporteur.** – Madam President, firstly I would like to thank all the shadow rapporteurs who have been very willing to work with me on what is an incredibly technical and difficult dossier. By working together we have been able to come up with what I believe is a good compromise. I would also like to thank the Commission for their cooperation, and we look forward to working with them on this dossier in the future. I would also like to thank Patrick Baragiola from the AGRI secretariat and my adviser Dan Dalton.

Animal testing is a highly controversial area and involves a moral dilemma. Is it ever right to test on animals in order to potentially save the lives of humans? I believe that, as long as tests are properly justified from both the scientific and ethical perspective, then it is.

However, we must do everything we can to minimise both the number of tests and the amount of suffering imposed upon animals. The Commission report was a good start. It showed that the Commission is keen on moving towards an end to animal experimentation whenever possible. However, in many areas the Commission proposal was ambiguous and may have the opposite effect to that which the Commission is seeking.

The omission of definitions of a severity classification was a glaring hole in the whole proposal. The Commission was in effect asking Parliament to make a judgement on the rules surrounding the classifications without knowing what they actually were. In addition, some provisions, particularly the recommendations

on the reuse of animals and on the proposed use of only F2 primates (second-generation primates) are likely to mean that many more animals will have to be used.

In the case of F2 primates, no feasibility study has been done to see whether it is possible to do what the Commission is proposing. Their impact assessment only looks at numbers; it does not look into the welfare implications. For this reason, Parliament urgently needed to amend the proposal: not to weaken it but to make it clear exactly when testing on animals should be allowed and under what circumstances.

I believe that the AGRI Committee report strikes a compromise between ensuring that research can continue in the EU and improving animal welfare. From an animal welfare perspective it is a step forward. It is all about promoting alternatives to animal experimentation through a financial commitment, more emphasis on the three 'R's and the strengthening of the role of ECVAM.

In addition I have also proposed regular thematic reviews of primate experiments to identify and phase out those experiments which are not necessary.

It is also a step forward for medical research. It will update the current outdated legislation and will allow medical research to continue as and when that research is scientifically and ethically justified. I believe that this is fundamentally important. We also want to see animal tests reduced. However, European citizens quite rightly demand that the best and more effective medicines are available.

Reliable European research and development is essential. Vaccines for polio, German measles, hepatitis B, diphtheria, measles, mumps, rubella and meningitis, along with combined therapy drugs for HIV, medicines to control asthma, life support systems for premature babies and deep brain stimulation for Parkinson's disease, have all been developed through experimentation on animals, and specifically primates. Many millions of lives have been saved or improved as a result.

Until we have alternatives in place, I believe that it would be unwise to outlaw these types of experiments, either directly or indirectly through poorly worded legislation. This directive will set out the framework to ensure that we can phase out animal testing as soon as alternative methods are available. It significantly improves the search for alternatives and puts us firmly on the path to one day phasing out animal testing altogether. We have a good compromise in the AGRI Committee. However, the Liberal group appears to be trying to drive a coach and horses through this agreement. I would urge them not to vote against this report, because it will set back animal welfare by several years and it would be completely wrong for them to take this action.

**Stavros Dimas**, *Member of the Commission*. – (EL) Madam President, I welcome the opportunity that we have this evening of debating the proposal to revise the directive on the protection of animals used for scientific purposes. I should like to thank the rapporteur, Mr Parish, and the three parliamentary committees that examined the report for their efforts and their comments. I am certain that the dialogue which ensues will be constructive.

Numerous Member States have long since adopted their own national legislation on the protection of animals used for scientific purposes. As a result, there are different levels of protection in Europe. The review will achieve a harmonised level of protection within the Community and will safeguard the smooth operation of the internal market. The Commission's aim is to improve the legislation of the European Union governing animal experiments. On the one hand, this will both limit the number of experimental animals and, on the other hand, it will provide suitable care and treatment of animals subjected to experiments, as required under the Protocol on protection and welfare of animals added to the Treaty establishing the European Community.

Our aim is for this review to considerably improve the welfare of experimental animals within the European Union. The welfare requirements of animals are now officially included in the Treaty on European Union and must be taken into account when laying down policies in sectors such as the internal market. Experts and specialists in the animal testing sector, the research community, the industry directly interested and citizens were involved in formulating the proposal with transparent procedures and without exclusions. The proposal is also based on a carefully substantiated impact assessment. Moreover, numerous scientific agencies made a significant contribution to this procedure. A comparative analysis of the possible benefits and the costs of taking action against not taking action was carried out in order to draw up the proposal. This proposal strikes the necessary balance; on the one hand, it promotes competitiveness and research in Europe and, on the other hand, it takes full account of the welfare requirements of animals. The Commission has carefully examined the concerns expressed by various sides that the proposal would expel European research from Europe, due to the supposed administrative burden or the cost involved in specific animal

welfare requirements. However, there is no evidence that there will be any such drain to non-EU countries. Several of the welfare standards contained in our proposal and many of the stricter licensing procedures are already being applied by Member States who lead the way in research globally. Furthermore, our proposal makes provision for measures to minimise the administrative burden. There is, in fact, no contradiction between the adoption of strict animal welfare standards and the promotion of a high level of scientific research. On the contrary, the two concepts are interconnected.

Under the Commission proposal, the licensing of research on animals who are still conscious will be accompanied by systematic independent ethical evaluation. This will put the principles of restoring, restricting and improving the use of animals into practice. These provisions are the fundamental objectives of the review. We shall be unable to achieve our objectives if we replace licensing by tacit agreement to every type of research or if we allow the ethical evaluation to be carried out by those with a direct interest in the research project.

Finally, the Commission wishes to avoid any possible interruption to scientific projects under way and to minimise the administrative burden. That is why it allows for flexible application and encourages the use of existing infrastructures in the Member States wherever possible.

Ladies and gentlemen, the recast proposal will restore the smooth operation of the internal market, improve animal welfare standards and promote research. The current legislation urgently needs to be strengthened and improved in a properly balanced manner and that is precisely what the Commission proposal achieves.

**Marios Matsakis**, *rapporteur for the opinion of the Committee on the Environment, Public Health and Food Safety*. – Madam President, it is a necessary evil of our times that, unfortunately, human and animal health research requires, as a must, animal experimentation. It is my firm belief that no true scientist enjoys experimenting on animals or does so when alternative means of research are available. Such research must of course at all times be as humane as possible to the animals involved.

To this end the directive under debate seeks – correctly, in my view – to improve matters significantly and decidedly. Important areas of note are the safeguarding of the principles of ethical review and authorisation as well as the concepts of enhanced national inspections and increased transparency throughout. It must be emphasised that the aim of the scientific and political world should always be to phase out the use of animals in research if and when alternative and effective methods not using animals are made available.

**Esko Seppänen**, *draftsman of the opinion of the Committee on Industry, Research and Energy*. – (FI) Madam President, Commissioner, the report by the Committee on Agriculture and Rural Development is a compromise that takes account of the views of the parties in a balanced way. The Commission proposal has been amended in a way that the Committee on Industry, Research and Energy is also proposing.

As there are no alternative procedures for developing all drugs and vaccines, animal experiments have to be conducted. We are responsible to the citizens of the EU for ensuring that our fellow citizens, when ill, are comforted by the hope that the drugs needed to cure them are also developed in Europe.

At the same time, those who conduct animal tests are under an obligation to treat experimental animals well and cause them as little pain as possible. The directive is a clear improvement for animal welfare, and many of the amendments tabled by the Committee on Agriculture are the same or similar to what we, the Committee on Industry, proposed. Accordingly, the Committee on Agriculture's report should be adopted with as few changes as possible.

**Elisabeth Jeggle**, *on behalf of the PPE-DE Group*. – (DE) Madam President, Commissioner, ladies and gentlemen, the Animal Testing Directive is based on the 3Rs principle. Our objective is the replacement, reduction and refinement of animal testing. In order to achieve this, we need to develop and promote alternative methods. Thirdly, we must find a compromise between animal welfare and research, while placing the emphasis on human health. Commissioner, you have also emphasised that we need to have the same standards in all Member States.

The current legislative proposal is based on the Community Action Plan on the Protection and Welfare of Animals and on the animal health strategy. We want to ensure a high level of protection and high standards in the European Union and throughout the world. However, the complete abolition of animal testing without other methods being available as an adequate replacement would make the majority of the research based on animal experimentation in the European Union almost impossible. Research projects would move abroad, we would lose the huge amount of knowledge that we currently have and we would make ourselves completely

dependent on other countries. Therefore, it is important to find a compromise and the Committee on Agriculture and Rural Development has presented a good compromise. Admittedly it is not an easy balancing act, but for people who are ill it may be a matter of survival.

The result of the vote in the Committee on Agriculture and Rural Development on 31 March meets these requirements. We must support this compromise which was accepted by 72% of the committee. Therefore, I call on all Members of this House to reject all the more far-reaching amendments that have been submitted and to vote in favour of the amendments from the Group of the European People's Party (Christian Democrats) and European Democrats and the Socialist Group in the European Parliament.

My warm thanks go not only to the rapporteur, but also to many of my fellow Members throughout Parliament.

#### IN THE CHAIR: Edward McMILLAN-SCOTT

*Vice-President*

**Roselyne Lefrançois**, *on behalf of the PSE Group*. – (FR) Mr President, Commissioner, ladies and gentlemen, I must firstly congratulate the rapporteur, Mr Parish, on the quality of his work and the importance that he placed on cooperation with the shadow rapporteurs.

Before we vote tomorrow at first reading, I want to go over the main lines of this report. Nowadays, the negative image that animal experimentation can have among the general public confirms the indisputable importance of this issue. Like me, you will have also received, over the last few weeks, a large number of letters from worried citizens.

However, while we have a duty to propose a text that takes account of the public's fears, we must not, for all that, neglect the demands of researchers. I must underline the fact that we cannot forget that researchers are not only legitimate representatives of this public opinion, but primarily people whose role is absolutely fundamental within our society.

You must be aware that, in the last 20 years, the number of animals used for scientific purposes has not increased, despite the fact that the number of scientific publications in the area of biomedical research has doubled every two years. In order to understand the challenges involved in revising this directive, I myself have met with many stakeholders representing the various opinions on this issue.

To my mind, the initial text proposed by the European Commission was really moving away from the fundamental aim in using animals, namely to make advances in research. It was therefore essential to put the issue of human health back at the heart of the discussions.

Clearly, the provisions on animal experimentation must be amended, but European research must not, however, suffer negative consequences from this new legislation. The strategy that I adopted, and which has been taken up by the rapporteur, therefore involved rebalancing this proposal to ensure that researchers are not harmed.

Based on the report adopted in the Committee on Agriculture and Rural Development, I believe that we can arrive at a coherent and reasonable text, which I hope will be broadly supported by Parliament.

**Jorgo Chatzimarkakis**, *on behalf of the ALDE Group*. – (DE) Mr President, Mahatma Gandhi said 'The greatness of a nation and its moral progress can be judged by the way it treats its animals.' The welfare of laboratory animals is an important and delicate subject that many people would like to ignore. However, it is a very sensitive issue, in particular when it comes to research using monkeys and especially great apes. We know that this is the case from the public reaction.

The Commission was subjected to great pressure. I would like specifically to thank Commissioner Dimas. You have done some very good preparatory work and you have introduced important improvements in the welfare of laboratory animals, such as prior authorisation and follow-up checks for all tests. You have extended the directive to cover all animal species, not just mammals. The Commission has also effectively resolved the highly controversial issue of tests on non-human primates. These tests have been restricted to life-threatening illnesses and brain diseases.

Unfortunately, many details of the Commission proposal have been amended by the votes in the committees. For instance, the standards that I have just referred to have been turned on their heads by the vote in the Committee on Agriculture and Rural Development. To give just one example, following the vote in the



Committee on Agriculture and Rural Development, tests will be automatically authorised if they have not received official authorisation after 60 days. This is an indefensible situation for us in Europe.

This is why I am calling on my fellow Members to read through what you are voting on tomorrow and not just to follow your voting guidelines. I am grateful to the rapporteur for being prepared to make some compromises at the last minute. I am pleased that Mr Parish plans to introduce an oral amendment tomorrow to ensure that the rules on the authorisation period for projects are made clearer.

However, it is a pity that Article 15 has not got through. Article 15 gives some Member States the option of retaining stricter standards, as is the case, for example, in the Netherlands. Why do we want to lower the standards which are currently very high in the Netherlands? Our joint aim must be to find a balance between high levels of animal welfare and intensive research. I have had enough of the knock-out argument, which is always trotted out, that research will move abroad. This is not necessarily always true.

Schopenhauer said 'Any stupid boy can crush a beetle, but all the professors in the world cannot create a new beetle.' We must provide a set of values, because that is our job.

**Kartika Tamara Liotard**, *on behalf of the GUE/NGL Group*. – (NL) I am pleased that the Commission has taken the initiative to revise the Directive on the protection of animals used for scientific purposes. Both the use and the suffering of laboratory animals must be substantially reduced, and this can be done by encouraging the development of scientific methods that are equivalent or more efficient, but without unduly hindering the development of medicinal products.

Something I have difficulty with, however, is the fact that several amendments have been tabled that could considerably weaken the proposal. We must not lose sight of the objective of the proposal. This is about protecting laboratory animals and not about business profits. The most important thing is to ban procedures categorised as 'severe' in which laboratory animals may suffer prolonged pain. These procedures are unethical and barbaric.

Finally, the use of non-human primates in experiments must be phased out completely – and rapidly. Parliament adopted a written declaration on this back in 2007, and I think that it is now time to match words with deeds.

**Bastiaan Belder**, *on behalf of the IND/DEM Group*. – (NL) Mr President, high animal welfare standards are an expression of civilisation and of respect for one's fellow creatures. Where good alternatives to animal testing are available, these must be used, as we want less animal testing. This also goes for good procedures that reduce animal suffering or require fewer laboratory animals, as we want less animal suffering.

I think that the proposed compulsory ethical review is progress. Naturally, the objective of this directive cannot be to compel Member States to accept testing on human embryos as an alternative. Member States must take their own ethical decision on this.

The Commission's ultimate aim is to abolish animal testing completely. Although we share this aim, it is an unfortunate fact that we cannot yet do without animal testing, nor are we yet in a position to say definitively when this will be the case. Already giving a final deadline for banning animal testing would be ill-advised and perhaps even hazardous to human health; I agree with the rapporteur on this.

**Françoise Grossetête (PPE-DE)**. – (FR) Mr President, our fellow citizens are calling for more research, particularly in the biomedical area, in order to find new treatments for diseases for which we do not yet have a cure. This is the case, among others, with all the neurodegenerative diseases, such as Parkinson's and Alzheimer's. We also know that we need animal experimentation and that this animal experimentation has fortunately reduced in recent years because we have set ourselves the goal of finding alternative solutions.

However, unfortunately, we know that, in some cases, these solutions do not exist and we still need to use animal experimentation, particularly on non-human primates. In this case, we must do absolutely everything we can to ensure that European research remains in the territory of Europe so that we can offer maximum protection. Taking into account an animal's pain during an experiment offers every guarantee that this experimentation will produce good results.

Therefore, let us keep our research and, in particular, let us also keep animal experimentation. Let us particularly make sure that this research is not relocated outside Europe.

**Luis Manuel Capoulas Santos (PSE).** – (PT) Mr President, Commissioner, ladies and gentlemen, using animals for scientific purposes is a very sensitive matter that gives rise to controversial and irreconcilable emotions, if viewed from one side only. It is impossible to discuss this issue solely from the perspective of protecting the interests and rights of animals. It is also impossible to discuss this issue looking solely at the interests of science or using a logic of obtaining results at the lowest possible cost.

No one can be indifferent to the suffering of other living beings, even less so in the case of animals as close to us as primates. However, our sensitivity is even further heightened when we are faced with the suffering of human beings caused by accidents, war or disease. In order to combat pain, we cannot refuse science the instruments that it needs, including the use of guinea pigs.

This report sets out a possible balance between the contradiction of values and emotions with which we are faced, and it reveals an effort to compromise which can only ennoble this Parliament and its most committed Members. I therefore congratulate those with whom I dealt most in this discussion – the rapporteur, Neil Parish, and the shadow rapporteur of the Socialist Group in the European Parliament, Roselyne Lefrançois – on their excellent work and the consensus that they managed to achieve on such a difficult and controversial issue.

My political group, the PSE Group, will therefore vote for this report and the amendments with which we tried to further improve it, in the belief that we will therefore help to reduce the suffering of animals, without compromising scientific progress for the benefit of human health and the viability of European research.

**Zuzana Roithová (PPE-DE).** – (CS) Mr President, Commissioner, ladies and gentlemen, I am concerned about the suffering of laboratory animals as well, but at the same time I know, as a physician, that we must do everything we can to make vaccines and medicines available to our patients as soon as possible, for the treatment of new and old diseases. I would like to thank our fellow Members, who have succeeded in finding a truly balanced compromise which respects and honours ethical principles applying to the treatment of animals while at the same time making it possible to carry on with research projects. First and foremost this directive sends a clear political signal that we want our scientists to look for alternative methods of verifying research into new medicines, in order to minimise the number of animals and the number of tests, while naturally complying with all of the possible ethical principles so as to avoid the suffering of animals. I would like to thank you all for this outcome.

**Caroline Lucas (Verts/ALE).** – Mr President, I cannot hide the fact that this report has been a serious disappointment to those of us who thought that a rapporteur who was also the president of the animal welfare intergroup might have reflected that concern for animals rather more diligently in his report.

It is therefore essential that some crucial amendments are adopted when we vote on this. In particular, the scope of authorisation must apply to all projects, not just to severe and moderate ones. If we fail to ensure that, it will mean that many procedures causing pain, distress or suffering would no longer be subject to a centrally monitored ethical review and that in turn would effectively undermine the enforcement of many of the measures set out in the proposal as a whole.

But, if our amendments are passed, it will mean that there will be renewed effort going into research and the alternatives to animal testing, which is particularly critical in basic and medical research. Current efforts are concentrated on regulatory testing, which accounts for only 10% of animal use. For the sake of both the animals and human health, it is essential that more modern, effective non-animal tests come into use as soon as possible.

**Stavros Dimas, Member of the Commission.** – (EL) Mr President, I should like to thank all the speakers for their very constructive contributions to this evening's debate. Allow me to formulate some brief comments on certain amendments. The Commission can accept numerous amendments in full, in part or in principle. These amendments include proposals to improve the confidentiality of data relating to installations and staff working with animals. They also include proposals for regular review of the use of non-human primates at European Union level.

Concern was also expressed about the criteria for severity bands. I am in a position to announce to you that, before the summer recess, the Commission will convene a working party of experts to examine the definition of appropriate criteria for use in the European Union. Without doubt, we will need to maintain the balance struck, as a result of detailed consultation with those directly involved, between the needs of industry and the promotion of research, on the one hand, and animal welfare, on the other. Consequently, the restrictions on the use of non-human primates must be retained, as must the principle of licensing and independent

ethical evaluation of all forms of research, which are basic elements in this proposal. To recapitulate, the Commission is able to accept 83 of the 202 proposed amendments in full, in part or in principle. I shall send Parliament's secretariat a list with the Commission's detailed positions on the amendments.

Finally, I should like to say that, over and above this proposal, which is very important and for which we must maintain the balance between the needs of scientific research and improving human health, while at the same time using methods which are not hard on animals, I must say that the Commission, all the while I have been Commissioner, has taken numerous measures to protect animals. I would remind you of our previous debate on seals, of the very drastic measures and reaction in connection with whale hunting, of the issues relating to unsustainable hunting, especially in spring, and of the measures which we took for the first time as the Commission, with safety measures to prevent precisely such cases.

I truly cannot understand how practices such as fox-hunting or bullfights or cockfighting can be compatible with today's culture.

**Neil Parish, rapporteur.** – Mr President, I should like to thank Members very much for their views and the Commissioner for his views.

We are right to have this review of this legislation. It is right to refine, reduce and replace animal testing wherever possible. We are right to keep the momentum going. Both industry and animal welfare organisations believe this is necessary.

This is an issue which I believe goes well beyond politics and is very much a moral issue that we must get right. I for one am very disappointed – if he were here I would say it to him clearly – that Graham Watson has made a personal attack on me in my own region, making this a highly political issue. This is regrettable because we need to come forward with a sensible proposal in the end.

A lot of technical expertise and work has been put into this report. We do not deliver this report lightly. We have put serious work into it and we have good compromises. I have sought to bring all sides together to deliver a report which is right for Parliament, right for research and industry, and right for animal welfare. I would urge all to support it because, if we do not get it through, we face delaying the report for a couple of years, and this would be detrimental to the industry and to animal welfare. So I would urge all Members to support it.

If there are groups here that decide to vote against it, I think in the long run all it will do is delay what is a good proposal, one which will help to make sure there is research available in the European Union to help with disease control and new medicine while at the same time reducing the number of animals we need to use and actually strengthening ECVAM in looking for alternatives. So I would urge all Members to vote for it because we want a really resounding result in the morning.

**President.** – The debate is closed.

The vote will take place tomorrow (Tuesday, 5 May 2009).

#### **Written statements (Rule 142)**

**Šarūnas Birutis (ALDE), in writing.** – (LT) The draft Commission report strongly supports the development of a more animal welfare friendly approach to the issue of the use of animals in scientific experimentation. This demonstrates the Commission's commitment towards the end goal of the abolition of animal experimentation.

The European Union should be working towards this goal. The European Parliament has made its belief clear that more should be done towards the final objective of removing animals from scientific experiments altogether.

However, whilst this remains the end goal, we are not yet in a position to end animal experimentation altogether. There remains a huge gap in the development of alternative, non-animal testing methods. Whilst this remains the case, it would be unwise and potentially disastrous for human health to mandate a date beyond which animal testing or testing on certain categories of animals, such as non-human primates, can no longer be carried out. Public opinion polls tend to support this approach and they cannot be ignored.

**Daciana Octavia Sârbu (PSE), in writing.** – (RO) I would first of all like to congratulate the European Commission for its proposal to revise Directive 86/609/EEC, but I am sorry that the rapporteur did not put forward more ambitious objectives.

I think that we must invest more in carrying out research into finding alternatives to using animals for scientific purposes. We must oblige laboratories to resort to the use of animals for scientific experiments as little as possible, especially those taken from the wild.

I strongly oppose the use of non-human primates for biomedical research, except only where there is a need to use them exclusively in experiments involving life-threatening or debilitating conditions.

From an ethical standpoint, there must be an upper limit of pain, suffering and distress above which animals must never be subjected in scientific procedures. With this in mind, carrying out experiments which result in severe pain, suffering or stress, and which are likely to be prolonged, must be banned.

I am aware that public health is of paramount importance, but we must not allow animals to be subjected to extreme suffering in order to test treatments.

I also support the amendment stipulating that the directive must not restrict Member States from applying or adopting more stringent national measures, aimed at improving the welfare and protection of animals used for scientific purposes.

### 23. Ship-source pollution and penalties for infringements (debate)

**President.** – The next item is the report by Luis de Grandes Pascual, on behalf of the Committee on Transport and Tourism, on the proposal for a directive of the European Parliament and of the Council amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements (COM(2008)0134 – C6-0142/2008 – 2008/0055(COD)) (A6-0080/2009).

**Luis de Grandes Pascual, rapporteur.** – (ES) Mr President, Vice-President of the Commission, Commissioner for Transport, Mr Tajani, President-in-Office of the Council, ladies and gentlemen, personally, I cannot imagine a greater finishing touch to the end of this parliamentary term than the adoption of this proposal for a directive on ship-source pollution and the introduction of penalties, including criminal penalties for pollution offences, which I hope will receive everyone's support.

The consensus we have reached suggests that we have widespread support for the proposal and that it will be adopted tomorrow at first reading. Apart from the tremendous effort made by the three institutions during the negotiations phase, this is mostly due to the fact that we agree that the Community needs to take action in order to combat serious offences against the environment.

It is certainly true that Member States were initially suspicious, given that the measure intended for adoption – the Community's acquisition of powers in the area of criminal law – will not be the fruit of a reform of the Treaties but, instead, will be achieved through legislation which, in addition, is unquestionable and of immense significance.

All this is derived from the need to address widespread problems in maritime transport, such as the worrying escalation of illicit operational discharges of ship-source polluting substances. Although we already have current international regulations to minimise this situation – the Marpol 73/78 convention – we are increasingly seeing glaring shortcomings as regards application and compliance; it has also been observed that the civil liability systems governing ship-source pollution in force at present are not sufficiently dissuasive.

Malpractice in certain areas of European coastlines is so recurrent that some of those responsible for maritime transport prefer to carry out the illicit practice of polluting, because it costs them less to pay the administrative penalty than to comply with the relevant legislation. Such behaviour has transformed the former principle of 'the polluter pays' into 'pay to pollute'.

Indeed, by introducing criminal penalties on account of the severity and social stigma they carry in comparison with administrative penalties, the European Union is trying to deter potential polluters from any kind of contravention.

The reform is the fruit of negotiations with the Council, represented by the Czech presidency which, by the way, deserves my full praise, since it has had no shortage of political difficulties to face throughout its term of office; it is a combination of a structural reform of the directive, which does not affect the foundations of Parliament's mandate and which fully respects the principle of subsidiarity, since the directive establishes the principle of sanctioning actions in the terms defined by the Court of Justice ruling, while leaving Member States to define the types of penalties.

Furthermore, it consolidates the difference between minor discharges and major infringements and the corresponding penalties these deserve. Thus far, we had succeeded. We simply had to reiterate the agreements reached in the debate and the adoption of Directive 2005/35/EC and of Council Framework Decision 2005/667/JHA, but according to the new legal basis, since the aforementioned rulings bring about the possibility that the Community legislator may adopt measures relating to the criminal law of Member States.

The main innovation we have added to this amending proposal, which will enable us to go a step further in our fight against environmental infringements in the maritime transport sector, is that it claims – as was defended by this rapporteur from the very first day – that repetition of minor discharges involving water pollution can also constitute a criminal infringement.

I am pleased to see I have not fought this battle alone, for Parliament lent me its support through members of the Committee on Transport and Tourism; the Commission and the Council, in the end, understood the significance and scale of my proposal.

May I express my sincere thanks to the shadow rapporteurs who have helped me in my endeavours and who have provided support in the tough negotiations with the Council and the Commission; I wish to acknowledge the draftsmen of the opinion of the Committee on Legal Affairs and the Committee on the Environment, Public Health and Food Safety for their contributions. We finally reached a compromise solution with regard to the date on which the directive shall come into force, which will be in the next 12 months.

Ladies and gentlemen, I believe that today we all have reason to be satisfied, for, with the adoption of this legislation and the approval of the third maritime package at the beginning of March, the European Union has strengthened its position as a leader in maritime safety. I am certain, ladies and gentlemen, that we will be an example to others.

**Antonio Tajani**, *Vice-President of the Commission*. – (IT) Mr President, honourable Members, the Commission cannot help but be delighted at the outcome we are seeing, which will lead to the adoption of a new directive amending the previous one.

This will fill the legal vacuum created following the ruling by the Court of Justice annulling Framework Decision No 2005/667, which established the nature, type and level of criminal penalties for the illegal discharge of polluting substances at sea. Once adopted, the directive will make it possible to fight more effectively against those responsible for polluting the seas. The text that Parliament is about to adopt is, therefore, an important addition to the third maritime safety package signed by the presidents of both Parliament and the Council at the end of your last plenary session.

The compromise text currently being discussed is slightly different from the Commission's original proposal, although I have to say that the essential points have remained unchanged: firstly, the criminal nature of the penalties to be imposed for illegal discharges, and secondly, the possibility of prosecuting all those responsible for such discharges, including legal persons.

For this reason, the Commission supports the text, even if it does introduce separate treatment for minor infringements and repeated minor infringements. On the other hand, I can appreciate that the Council and Parliament have thought it desirable for discharges that do not lead to a deterioration in water quality to not necessarily be subject to criminal proceedings. Even more so than Parliament, I am keen to see small discharges criminally punished; although they may not be very serious, they can lead, precisely because they are repeated, to real pollution of the marine environment.

The compromise reached concerning the question of repeated minor infringements gives a more specific definition of 'repetition' and can therefore be accepted by the Commission, which, I repeat, is pleased with the outcome reached thanks to the work of the Commission staff and Members of this House. I thus believe we can say today we are happy to be sending out a message on reducing the pollution of our seas.

**Marios Matsakis**, *rapporteur for the opinion of the Committee on the Environment, Public Health and Food Safety*. – Mr President, the legal vacuum created by the relevant ruling of the European Court of Justice necessitated the amendment of the directive under debate. It is incredible that a legal-basis error has caused a delay in the implementation of such an important directive, and has without doubt been detrimental to our marine environment. Lessons can and must be learned by all concerned in order to avoid such occurrences in the future.

The main issue at this point in time is to speedily amend the proposed directive and get it on the road to implementation as soon as possible. Only then can we envisage the widespread problem of the increase in the incidence and scale of illegal operational discharges of ship-source polluting substances being brought under control, and only then will our task of fighting to keep our seas clean have real hope of success.

In conclusion, I wish to thank the rapporteur for the excellent work he has done on this report.

**Eva Lichtenberger**, *draftsman of the opinion of the Committee on Legal Affairs*. – (DE) Mr President, marine pollution is only the focus of interest when there has been a dramatic accident. Then there are serious debates about the threats to our oceans from this ongoing pollution. Unfortunately, the subject is always largely ignored in the interim. We must take seriously the constant and repeated violations of the law which make just as significant and just as dramatic a contribution to the threat not only to our oceans but also to our coastlines.

I would like to thank my fellow Members with whom we were able to discuss the issue for taking a consistent approach to the protection of our oceans. I come from a landlocked country, but nevertheless, as a European, I feel responsible for protecting our oceans against ongoing pollution caused by cheap business interests and for integrating the principles of the third maritime package, which is urgently needed, as the Committee on Legal Affairs has proposed.

**Georg Jarzembowski**, *on behalf of the PPE-DE Group*. – (DE) Mr President, Vice-President of the Commission, the Group of the European People's Party (Christian Democrats) and European Democrats supports the version of the amending directive, negotiated by the rapporteur with the Council, which introduces sanctions against ship-source pollution. We would like to congratulate him warmly on his work. We would also like to congratulate the Vice-President, because without the help of the Commission it would not have been possible to come to an agreement with the Council at the first reading. It is a big day for us, because we can complete this important dossier at the end of this period.

We must always remember that the new regulations became necessary because the Court of Justice of the European Communities in its judgments from 2005 and 2007 has finally made it completely clear that legislation, including criminal law, is permitted on the basis of the first pillar. We need this legislation to protect the seas from ships and from the behaviour of captains, shipowners and others. Until now the civil liability legislation has simply not been dissuasive enough.

It is much cheaper to discharge something illegally into the sea. Surely that cannot be right. Therefore, we need effective sanctions. I would like to thank the rapporteur for this three-way agreement, which has been reached between all three institutions. It is clear that serious ship-source pollution must be classified and punished as a criminal offence and minor ship-source pollution can be regarded a regulatory offence, so that there is a distinction between the seriousness of the two types of activity. However – and my third point is very important – repeated minor ship-source pollution should now be regarded as a criminal offence, because it contributes to the overall pollution of the oceans and that is not a trivial matter.

We must send out clear signals in this respect and we call on the Member States – and I hope that someone will pass this call on to the Council – to implement and to apply this directive immediately. We can only protect our oceans by means of dissuasive criminal sanctions.

**Silvia-Adriana Țicău**, *on behalf of the PSE Group*. – (RO) I too would like to congratulate Mr de Grandes Pascual. I also want to mention that pollution of the sea is really a topic which we must discuss more often. Unfortunately, I can cite the example of the Black Sea where, in just the last two years, the fact that it has become heavily polluted has led to a four-fold increase in the volume of algae, precisely due to a very high concentration of nitrates.

Obviously, maritime transport is unfortunately responsible for some of this pollution. This directive is actually intended to deal with illegal discharges from ships made either through negligence, deliberate intent or carelessness. In practical terms, the directive harmonises the definition of ship-sourced pollution caused by individuals or legal entities, the scope of the response to this and the punitive nature of the sanctions which can be applied in the event of any such violations committed by individuals.

I also want to mention that a set of coherent legislative measures have already been adopted at European level for reinforcing maritime safety and preventing ship-sourced pollution. This legislation refers and applies to flag states, ship owners and classification companies, as well as port and coastal states.

However, it is important for us to tighten the current system of sanctions for illegal discharges from ships by supplementing the relevant legislation. We must emphasise that this legislation was necessary precisely because the existing preventive regulations were not enforced adequately. Unfortunately, the MARPOL 73/78 Convention was not enforced adequately either. This is why I believe that it is important for us to have this legislative package. I also believe the fact that opinions were given by both the Committee on Legal Affairs and the Committee on Petitions highlights the importance of this subject.

**Marusya Ivanova Lyubcheva (PSE).** – (BG) It goes without saying that at a legislative and executive level, the European Commission and European Parliament are in the debt of the European citizens who are ultimately affected by the pollution which has occurred in our marine areas.

I am looking at this issue from the point of view of the previous regulation and its enforcement aimed at protecting the environment, the seas and associated coasts. I would like to reiterate that the regulation and the amendment to the directives are necessary, but are still inadequate. The most important thing of all is how effectively they are enforced.

It cannot be accepted as normal that you can dump your waste in the sea and pay a fine which costs less than complying with the directive's requirements. This is why, above all, attention must be focused on monitoring. Nowadays, there is a sufficiently large number of technological options available to ensure that waters and coasts can enjoy the protection of a long-term policy governing the use and protection of the entire flora and fauna.

I support the proposal to amend the directive as I believe that it is particularly important to set up a specialist body for the European Maritime Safety Agency whose activities will be aimed at implementing this directive.

**Antonio Tajani, Vice-President of the Commission.** – (IT) Mr President, honourable Members, at the end of this debate we must be grateful, I think, for the interinstitutional cooperation between Parliament, Council and Commission, which Mr Jarzembowski underlined in his speech. I would also like to thank the rapporteur for his work.

This time the institutions have shown, even at the end of this parliamentary term, that they are able to work in partnership and come to a solution at first reading, and I believe that this is a message we are sending to citizens, on the eve of the European elections.

A further message in the sensitive area of transport, and, since this will be one of the last debates to involve Parliament's Committee on Transport and Tourism, I take this opportunity to thank all the members of that committee for the work they have done in cooperation with the European Commission and myself, to come up with practical solutions to several important matters, some of which had been dragging on for months. This was made possible thanks to the intelligence of Members of this House, and also to the work we have done to achieve efficient cooperation among our staff, showing that, when bureaucracy has clear-cut tasks, when there are goals to be reached, it is not a barrier for citizens but an effective instrument, alongside politics, with which to meet citizens' needs.

I believe that today, and of course tomorrow with the vote, Parliament will give another demonstration of efficiency and a desire to always work for the people. So, with this debate and with the vote, Commission, Parliament and Council are filling a legal vacuum and enabling Member States, from tomorrow, to better prosecute those who pollute our seas: another step taken by the European institutions to strengthen the rights and freedoms of the European people.

**Luis de Grandes Pascual, rapporteur.** – (ES) Mr President, I shall speak very briefly, for which the honourable Members will be grateful at this time of night: Mr Tajani, many thanks once again because you have shown, as you did in the third maritime package, that your impetus and political skill have brought about an agreement with the Council and made it possible for Parliament, the Council and the Commission to come to an agreement on this occasion and in the final days of this parliamentary term.

I believe that we should congratulate ourselves. I am, of course, grateful to the draftsmen of the opinions, both from the Committee on Legal Affairs and the Committee on the Environment, Public Health and Food Safety, for their close collaboration.

May I reiterate my thanks for the shadow rapporteurs' hard work and collaboration; I am certain that tomorrow's adoption of an agreement at first reading on such an important regulation that is sure to complete the work of the third maritime package, is a success for this Parliament and for the three institutions of the

European Union; once again, it justifies the useful codecision procedure which enables us to hold a constructive dialogue to the benefit of all the citizens of the European Union.

**President.** – Thank you, Commissioner, not only for your work as Commissioner but also as a Member of the European Parliament.

The debate is closed.

The vote will take place tomorrow (Tuesday, 5 May 2009).

## 24. Consumer rights (debate)

**President.** – The next item is the debate on the oral question to the Commission on the proposal for a directive on consumer rights by Arlene McCarthy, on behalf of the Committee on the Internal Market and Consumer Protection (O-0076/2009 – B6-0232/2009).

**Arlene McCarthy, author.** – Mr President, I know Commissioner Kuneva is here, and I very much welcome the opportunity at this last session of Parliament's mandate – even at this very late hour – to have an exchange of views on the Commission's consumer rights proposal.

We have produced a working document and you will recall that the IMCO Committee working group, led by myself as chair and rapporteur, made a decision not to rush this proposal without taking full consideration of all its implications, in particular since it has been described as the most far-reaching change in approach to consumer law in Europe.

The committee, I believe, has very diligently carried out its work with a public hearing, several exchanges of views, a presentation suggested by Mr Harbour on the impact assessment, and an online consultation with has received around 100 responses from organisations across Europe in just three weeks.

We also held an exchange of views with representatives from the 27 national parliaments to which the Commissioner was also invited. Commissioner, I know that you and your staff are fully aware that this is a controversial proposal that merits further examination in a number of areas.

We appreciate the drive to improve consumers' rights in the internal market. We also agree that there is a need to improve the functioning of the business-to-consumer internal market by removing barriers to cross-border trade, but there is also a need to reassure our consumers that they can continue to expect a high level of protection.

During our deliberations, debate and consultations with stakeholders, we received numerous representations concerned about the lack of clarity and certainty in this proposal. We encouraged consumer organisations and business stakeholders to initiate their own dialogue on how we can make this proposal work, and I know that the Commissioner has received a jointly drafted letter from business and consumer organisations which has been copied to all MEPs. I would like to quote from that. They say, 'we attach great importance to the legal clarity and quality of the proposal, as well as to the need to know what consequences and changes it would bring about compared with the current situation. We believe there is a high degree of uncertainty about the scope and the consequences of this proposal in particular in relation to its impact on national legal orders.'

Their concerns are clear. We need to be clear in our final proposal. Are we asking consumers to give up some of the rights they have under national law? If so, what does the consumer get in return? And if we are not asking them to surrender certain contract law rights, such as the right to reject in UK and Irish law, then is business still not faced with 27 different sets of consumer rules, the abolition of which was a key objective in the first place?

My colleagues and I believe that our first priority is to evaluate what this proposal will do for consumers and business in real practical terms. That is why tonight's oral questions identify some key issues that we would like to work with you on, and that we need to make sure are addressed, in order to produce a workable set of rules that benefit all stakeholders. Our questions therefore focus on the details of specific areas where we would like to see further work.

Some members of the working group were concerned at perceived flaws in the impact assessment and want to see more evidence of the costs of legal fragmentation if we do not act. They also want more information on the economic impact of the proposal, not only on the impact of the information requirements.



In short, we would like the Commission to take some time in the intervening election period before Parliament is reconstituted in July to undertake the following work (this is all contained in the Oral Question): an analysis of the practical and legal implications of the proposal on consumer rights in each Member State; a clarification of the relationship between the fully harmonised provisions in the directive and the general remedies available in national contract law; a clarification of the interplay of the draft proposal with existing Community legislation, in particular the Unfair Commercial Practices Directive, E-Commerce Directive, Services Directive, the Rome I Regulation and, of course, the proposed CFR. We want some further evidence in the impact assessment to help us analyse and demonstrate the benefits and costs of this proposal and any alternative approaches that could be put forward.

We want you to help us, and we will work with you, to ensure that we support a dialogue between stakeholders on what measures are necessary to bring mutual practical benefits for business and consumers alike.

Commissioner, I believe it is possible to produce a workable practical proposal that is supported by all stakeholders. I pledge to you that the Members of this House wish to continue to work with you to ensure that we deliver that, and that we can at some point in time vote through this Parliament a new consumer rights directive.

**Meglena Kuneva, Member of the Commission.** – Mr President, I thank Arlene McCarthy very much for her words because a lot has really been done on this directive. I would, however, like this directive – which we will continue to work on – not just to be adopted, but also to be embraced, by all the stakeholders. We will not spare our efforts for this to happen. As this is our last session here, may I use the opportunity to thank you all very sincerely, especially Arlene as the chair of our committee, as well as Mr Harbour and especially Mrs Cederschiöld. I expect one way or another to keep in touch with you because it was a real pleasure to work with you and I hope this will continue in another way.

I would now like to concentrate on the next important steps for the directive because I do believe that this directive is very important for all of us. We need this directive for the internal market of the 21st century. Let me make it clear that, before tabling the proposal, the Commission carried out a comparative law analysis, the 'Compendium', covering the laws of the Member States transposing the consumer directives under revision. The Commission is now going through the various provisions of the proposal in more detail with the Member States in order to improve its understanding of the practical impact on national law.

My services are preparing a table, which aims to illustrate the impact of the proposal on the existing levels of consumer protection across the EU. The table will cover those provisions (for example the length of the withdrawal period and of the legal guarantee) for which it is possible to assess whether the proposal will bring about an unquestionable increase or decrease in consumer protection in the various Member States. The table will be available by the end of May at the latest.

Under the proposal, Member States will be able to retain general contract law remedies for faulty goods, provided that the legal requirements for the exercise of these remedies differ from the requirements which apply to the remedies regulated in the proposal. I appreciate that this interaction between the proposal and national general contract law remedies could be made clearer in the text. This means that remedies such as the right to reject in the UK or the *garantie des vices cachés* in France could be maintained. However, I am also prepared to consider alternatives whereby elements of these national remedies could be incorporated into the proposal, if such a solution were to be preferred by the Council and the Parliament.

The proposal complements the Unfair Commercial Practices Directive (UCP). Whereas UCP protects consumers collectively against questionable business practices by rogue traders, the draft Consumer Rights Directive provides consumers who conclude a contract with a trader with individual contractual rights, which they can enforce before civil courts. As regards the Services Directive and the E-Commerce Directive, the information requirement in these Directives will apply in addition to those of the proposal and will also prevail in case of conflict with the proposal.

Finally, as regards the Rome I Regulation, the preamble to the proposal makes it clear that the proposal is without prejudice to the Regulation. As a consequence, the national law applicable to consumer contracts within the scope of the draft Directive will be determined exclusively by the Regulation.

The Commission, in preparing the proposal, was inspired by the findings of the contract framework of reference (CFR), for example, on the black list of unfair contract terms, the passing-off and delivery rules, as well as the streamlining of the pre-contractual information requirements.

For the future, it will be important to ensure coherence between the CFR and the Consumer Rights Directive. Given that the CFR will be a longer-term project, we will have to make sure that the final definitions and rules of the Consumer Rights Directive are incorporated in the section of the CFR dealing with consumer contracts.

The proposal for a Directive on Consumer Rights was preceded by a thorough impact assessment. The impact assessment also monetised the administrative burden that would accrue as a result of the changes proposed, and compared it with the cost of compliance that traders wishing to sell to other Member States have to incur as a result of the fragmentation of consumer protection rules and Rome I. The assessment showed that full harmonisation of the essential consumer rights would have strong positive effects on internal market integration and consumer confidence. During the initial stages of the legislative process, it appeared that further evidence and more insight might be useful on consumer behaviour and preferences regarding sales remedies. I intend to launch a qualitative study in the near future on this matter, with a view to gathering evidence following in-depth interviews with consumers and traders. The results of the study should be available in the third quarter of 2009.

The Commission is committed to maintaining a constructive dialogue – and this is my political commitment to you – with the stakeholders mostly affected by the draft directive during the legislative process. To that effect, I will gather consumer and business stakeholders together at a joint meeting in June 2009 to clarify elements of the proposal and to further discuss the most important aspects of the proposal. Parliament will be kept duly informed.

I would like just to add that last week I met all the consumer organisations under the umbrella of BEUC and we discussed this matter again. Two days later at least 10 representatives from the House of Lords came to discuss this directive in Brussels. This is a very good sign that interest in consumer policy is increasing, as is right for the internal market.

**Malcolm Harbour, on behalf of the PPE-DE Group.** – Mr President, I would first of all like to warmly thank Ms Kuneva for all the work she has done on consumer issues, since this is the last time in this Parliament we shall have a chance to debate with her. Commissioner, I from my side and, I think, the whole committee have really appreciated your intensive engagement.

I know it was perhaps somewhat disappointing for you that we felt we were not able to give this proposal a thorough review and get it to first reading before the end of this mandate. But I think history will show that we have done the right thing because the work that has been led very well by Arlene McCarthy – looking at the impact assessment, questioning the issues – has raised awareness in the proposal and has also got many more people engaged, as you yourself indicated.

It seems to me – and here are the crucial points I want to make in the short time available this evening – that one important thing that is missing from this proposal is the overall strategic framework that the Commission wants to follow in the evolution of the consumer acquis.

This proposal addresses goods but, at the end of this year, before we have this proposal in place, we shall have the Services Directive in place and there are many issues for consumers around that. We know that you are also looking at issues such as digital products, package, travel and so on.

I think we need to see what you intend to do with this goods package as part of a broader strategy for the direction of the consumer acquis. That is very important. It needs to be future-proofed; it needs to be part of an overall process. That is one of the things that I would be slightly critical of in the approach that has been taken so far. I hope we will be able to move that forward.

I was delighted you mentioned the House of Lords because I was also going to reflect on that. We have assured them that their report will be able to have a material contribution on the outcome, given the time we have available. We look forward in the end to an extremely good result for Europe's consumers and the internal market.

**Jacques Toubon (PPE-DE).** – (FR) Mr President, Commissioner, I would refer to the working document of Mrs McCarthy and Mrs Wallis. For the benefit of the next Parliament, it asks the questions raised by this proposal for maximum harmonisation and highlights the risk that some countries perceive of a weakening in the protection of their own consumers.

On the other hand, the Commission is right to want to expand cross-border trade, which is abnormally low for an internal market. I will not therefore go over the background again – as Mrs McCarthy has already done so – but would give the Commission some advice, if you will permit me.

Firstly, I hope that Mrs Kuneva will continue her work, and I hope that she can get a draft horizontal directive adopted. However, you will only achieve this if, firstly, you very precisely assess the impact on all national legislations, which has not been done; secondly, if you position this proposal very precisely in relation to existing and proposed regulations, directives and agreements at Community level, which has not been done; thirdly, if you very precisely stipulate that some rules of principle, such as on hidden defects, are safeguarded, which has not been done; and, fourthly, if you indicate – and this is the most important point – what level of protection will result from implementing the directive, and not just what the provisions will be.

In this respect, the proposal is not what you would call a clear document. Yet that is what we need: harmonisation which increases the level of protection. In short, Commissioner, you have been rather hasty. My advice would be to take some time – your time – and, with this time, to present all the arguments that will allow you to totally convince the governments and this European Parliament.

**Charlotte Cederschiöld (PPE-DE).** – (SV) There is currently room for improvement in consumer protection regulations. The negotiations have not started, Parliament has not made a statement and the Member States are just starting their discussion. We need *full* harmonisation in the area of consumer protection.

I have room for three points that I think it is appropriate to mention. 1. A clearer scope for the directive. 2. At present, goods with an original defect can be returned within two years; this should be three years. 3. The withdrawal period should be set at one year, which will increase consumer protection in most Member States. Clear, unambiguous rules and a high level of consumer protection benefit both consumers and businesses. Unclear rules are detrimental to genuine businesses and to small and medium sized enterprises. The Council and Parliament should now incorporate these three central points into a fully harmonised proposal.

Since this is my last debate with Meglena Kuneva, I would like to express my thanks for the fact that our cooperation has been so incredibly pleasant.

**Meglena Kuneva, Member of the Commission.** – Mr President, I would like to start by answering Mr Harbour. I see clearly why we need to address the issue of services, and services are definitely a very important part of the consumer strategy for 2007-2013. I fully realise that the European economy is a service economy.

As to why we are not addressing, for example, digital content, and excluding it from the scope of the proposal, I can state that the issue of consumer protection in respect of digital content services was raised in the green paper consultation. Several stakeholders, and in particular consumer organisations, consider this to be an important matter. However, it raised serious concerns in business quarters, and respondents argued that because of the complexity of the issue further careful analysis was needed.

To this end, the Commission will carry out a study in order to determine the scope of the problem and the extent of the consumers suffering detriment as a result of digital content not being covered. I would like to turn to digital issues next time, with rock solid arguments.

Without wishing to waste either the time of Parliament or of consumers and businesses, may I kindly inform you that tomorrow, together with Commissioner Reding, I will present the digital guide. This is a very practical guide based on the existing legislation – about 20 directives – which forms a kind of compendium of what we can do right now to enforce our rights, because sometimes the most important point is how we enforce legislation.

On the remarks which Mr Toubon made, I should say that, under the proposal, Member States will be able to retain general contract law remedies for faulty goods, and this means that remedies such as the right to reject in the UK, or the *garantie des vices cachés* in France, may be maintained.

Sometimes we need to invest more time in explaining the content of a directive, and that is what my colleagues are doing in the Council. At the least we need to make clear what we mean in one or other text, and this is the stage at which we can clearly settle questionable issues.

The Commission is now going through the various provisions of the proposal in more detail with the Member States, in order to improve understanding of the practical impact on national law, exactly as you, Mr Toubon, and Parliament asked. We will spare no effort to make everything clear. This is a legal text; this is a civil text;

and how this legal text can even be translated is itself quite a challenge. We will therefore keep explaining and maintaining the good level of collaboration with the Council, and with Parliament, on this aspect.

Thank you, once again, for the last comment, Mrs Cederschiöld. I will keep your proposals in mind. You are right to say that we are negotiating the directive. I listened very carefully, but let me be very clear in saying that there is one point on which I will not compromise, and that is full harmonisation.

**President.** – The debate is closed.

#### **Written statements (Rule 142)**

**Zita Pleštinšá (PPE-DE), in writing.** – (SK) Levels of consumer protection vary between the Member States. During the IMCO committee hearings representatives of voluntary consumer protection groups from the old Member States did not report financial problems. Consumers often pay for the services of these consumer groups before deciding on a purchase. This helps these organisations to remain independent.

Consumer organisations in Slovakia receive EUR 1 52 000 to fund their activities. I am concerned that such a pitiful sum will discourage these organisations from standing up for consumer rights.

Following the expansion of the EU it is all the more difficult and complex to be a consumer. A whole series of issues directly concern consumers, from the defect-free condition of products purchased, to confidence in transactions to on-line shopping and advertising. As many of these issues go beyond the boundaries of individual countries we need harmonised legislation and intensive efforts at prevention awareness, which will provide us with enough self-awareness to avoid becoming pawns in the hands of experienced companies. For this reason consumers should know how to use the portals providing them with up-to-date information, for example RAPEX on hazardous products, SOLVIT on the internal market, DOLCETA on financial awareness and many others. The European Consumer Centre and the Europa Diary can also help consumers considerably.

Commissioner Kuneva, on behalf of the Commission you must challenge the new Member States in particular not to undervalue consumer protection by failing to provide sufficient support for consumer organisations.

### **25. Recommendation to the European Commission in Complaint 185/2005/ELB (short presentation)**

**President.** – The next item is the short presentation of the report by Miguel Angel Martínez Martínez, on behalf of the Committee on Petitions, on the special report from the European Ombudsman following his draft recommendation to the European Commission in Complaint 185/2005/ELB (2009/2016(INI)) (A6-0201/2009).

**Miguel Angel Martínez Martínez, rapporteur.** – (ES) Mr President, Commissioner, in 2005 a freelance interpreter, discovering that he was no longer hired by the European Commission when he reached the age of 65, lodged a complaint with the European Ombudsman for alleged age discrimination in violation of the Charter of Fundamental Rights.

This was not a recent issue: years before, the Commission and Parliament had taken the decision not to hire freelance interpreters over the retirement age of their own staff.

The interpreters affected by this took the matter to the Court of Justice and won on first instance, but were ruled against at the appeal stage, although this was due to formal defects and not substance.

Taking into account previous cases and rulings, the Ombudsman made a thorough analysis of the complaint and concluded that, indeed, there had been evidence of discrimination and an infringement of the Charter of Fundamental Rights; he therefore recommended that the Commission change the rule in line with the action already taken by Parliament following the ruling by the Court of First Instance.

The Commission ignored the Ombudsman's recommendation, which compelled the Ombudsman to request support from Parliament, which passed the case on to the Committee on Petitions. The Committee on Petitions had three reasons for supporting the Ombudsman with the resolution that was adopted unanimously by the Committee.

Firstly, to line up with the position of Parliament itself, which had been hiring freelance interpreters over the age of 65 when it was deemed convenient or necessary.

Secondly, because of its obligation to support the Ombudsman. Parliament considers the Ombudsman to be a troublesome institution at times, but one that is always of great importance to our legal system.

Thirdly, we felt it was important to remind the European Commission that it is not above other Community institutions, especially those that are responsible for scrutinising and overseeing its work.

So here we are in plenary, presenting the resolution that was adopted unanimously by the Committee on Petitions, as I have said, and which calls on the Commission to implement the Ombudsman's recommendation; we are also reiterating that the Ombudsman, like Parliament itself, is above the Commission's Legal Service, which is an important department, but an administrative one and nothing more. Nothing less and nothing more than that.

I must confess, Mr President, Commissioner, to a certain uneasiness, because, throughout this process we have always sought to reach an understanding but, nevertheless, there has been a certain amount of pressure for the report not to reach plenary and even now some comments suggest that Parliament's position will be disregarded as well. This is most surprising and, in addition, does not stem from Commissioners themselves but, rather, from certain high-ranking officials – very few, but from some high-ranking officials – convinced that they are permanent members of staff in contrast to Members of Parliament and even Commissioners who are, by definition, interim staff here on a short-term basis.

Whilst reiterating, Mr President, Commissioner, fellow Members, our desire and will to cooperate and always be on good terms with the Commission, we have no choice but to reject the conduct to which I have referred. Let us hope that tomorrow's vote reflects what happened in the Committee on Petitions: a majority or unanimous vote in support of the Ombudsman, with Parliament making clear to the Commission that things are as they should be and that everyone knows their place.

**Meglena Kuneva, Member of the Commission.** – Mr President, first of all, I would like to stress that the Commission has acted in good faith, strictly respecting all relevant legal rules in the process. We have never been seeking a conflict with the Ombudsman, and even less so with the European Parliament. Our opinion was that our position would be recognised by the Ombudsman.

Our starting point is that, over the years, the working conditions for *agents interprètes de conférence* (AICs) have been increasingly aligned to the rules of the Staff Regulations. Since 2000, freelance interpreters have been linked to the Staff Regulations, after the decision of the Council of Ministers that they can pay Community tax instead of national taxes on their income from the European institutions.

And then, from 2004 on, they have been covered by Article 90 of the Conditions of Employment of Other Servants, which is why they are now called AICs. The age limit of 65 years is a rule of the Staff Regulations that covers all categories of personnel working for the institutions, be they officials, temporary, contract or auxiliary staff, as well as parliamentary assistants, following the recent adoption of a new regulation in this respect. This rule was applied to AICs by the Commission, as well as Parliament, between 2000 and 2004.

Following a decision of the Court of First Instance in 2004 stating that not to recruit AICs over the age of 65 constitutes discrimination, the institutions suspended the application of the rule. However, following an appeal against the decision, the Court declared it null and void. Consequently the Commission returned to its previous practice.

As there is no longer a Court decision in the matter, our reading is that the previous line applies and that the Commission has to apply the rules deriving from the Council regulation of the year 2000 and stop recruiting at the age of 65, exactly as for other staff.

The freedom of the interpretation services of the institutions to recruit AICs according to their needs is a cornerstone of efficient delivery of conference interpretation. This makes it possible to have most regular and predictable demand covered by staff interpreters, whilst fluctuating demand and peak situations are catered for by recruiting AICs.

This tried and tested system has made it possible for the institutions to satisfy requests for interpretation according to demand, including making a success of the latest enlargements while keeping costs under strict control. This approach also supports an active policy of training of young conference interpreters.

Finally, I would like to welcome the very positive contacts between Parliament and the Commission in this matter, and I would especially like to thank Vice-President Martínez Martínez for his valuable contacts with my colleague Commissioner Orban in a previous phase.

**Miguel Angel Martínez Martínez, rapporteur.** – (ES) Mr President, as I missed one minute of time earlier, I would like to respond to Commissioner Kuneva, who is aware of the feeling of friendship and affection I have for her and, indeed, for Mr Orban. But the Commissioner has failed to make a single mention of the Ombudsman's recommendation. In other words, the Ombudsman, who is aware of all the Commissioner's arguments, has made a specific recommendation of which the Commission appears to be ignoring every aspect.

I am not even asking Mrs Kuneva to give me an answer personally because, obviously, she is not the one with the information, but all the information she has given me is in line with what we already knew and with what the Ombudsman knows and yet she still has not told us whether the Commission – regardless of all that and knowing that the Ombudsman, who is familiar with the case, is recommending that the rule be changed – is going to act on the Ombudsman's request and Parliament's related recommendation.

**Meglana Kuneva, Member of the Commission.** – Mr President, the only thing that I can tell you at this stage is that I will report back to Commissioner Orban and make sure that you will have an adequate answer on this point. Of course we will take your comments very seriously and the last clarification which you asked for.

**President.** – Thank you, Commissioner, thank you, colleagues. Thank you to all the staff and thank you to all the interpreters, whatever age they may be.

The debate is closed. The vote will take place tomorrow (Tuesday, 5 May 2009).

## **26. Agenda of the next sitting: see Minutes**

## **27. Closure of the sitting**

*(The sitting closed at 23.45.)*