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#### COVER NOTE

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From: The United Kingdom  
House of Commons

date of receipt: 13 November 2018

To: General Secretariat of the Council

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Subject: Proposal for a Directive of the European Parliament and of the Council discontinuing seasonal changes of time and repealing Directive 2000/84/EC (Text with EEA relevance)

[ST 12118/18 TRANS 375 MI 635 ENER 301 AGRI 420 SAN 268  
CODEC 1463 - COM(2018) 639 final & SWD(2018) 406 final]

– Reasoned opinion on the application of the Principles of Subsidiarity and Proportionality

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Delegations will find, attached, a copy of the above-mentioned reasoned opinion, based on the Report by the House off Commons European Scrutiny Committee entitled *Ending Seasonal Changes of Time Directive*, a copy, together with formal minutes, of which is also attached.



# HOUSE OF COMMONS

Donald Tusk  
President of the Council of the European Union  
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13 November 2018

*Dear President,*

**EUROPEAN UNION DOCUMENT NO. 12118/18 AND ADDENDUM 1, PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL DISCONTINUING SEASONAL CHANGES OF TIME AND REPEALING DIRECTIVE 2000/84/EC**

On 13 November 2018, the House of Commons of the United Kingdom Parliament resolved as follows:

That this House considers that the draft Directive of the European Parliament and of the Council on discontinuing seasonal changes of time and repealing Directive 2000/84/EC (European Union Document No. 12118/18 and Addendum 1) does not comply with the principle of subsidiarity for the reasons set out in Chapter 1 of the Forty-Second Report of the European Scrutiny Committee (HC 301-xli); and, in accordance with Article 6 of Protocol No. 2 of the Treaty on the Functioning of the European Union on the application of the principles of subsidiarity and proportionality, instructs the Clerk of the House to forward this reasoned opinion to the Presidents of the European Institutions.

I enclose the reasoned opinion, and the relevant European Scrutiny Committee Report.

Sir David Natzler KCB  
Clerk of the House

## Reasoned Opinion of the House of Commons

Submitted to the Presidents of the European Parliament, the Council and the Commission pursuant to Article 6 of Protocol (No. 2) on the Application of the Principles of Subsidiarity and Proportionality.

### Concerning

#### **a Proposal for a Directive of the European Parliament and of the Council discontinuing seasonal changes of time and repealing Directive 2000/84/EC**

The United Kingdom House of Commons considers that the proposed Directive fails to meet the requirements of Article 5(3) of the Treaty on European Union and Article 5 of Protocol (No. 2) on the Application of the Principles of Subsidiarity and Proportionality for the following reasons:

- i. We do not consider that there is a sufficient evidence base to justify the discontinuation of seasonal changes of time in terms of the internal market objective of the proposal. There is not the detailed statement required by Article 5 of Protocol 2 in the proposal itself or in the Commission's accompanying explanatory memorandum and staff working document. Such a statement should make it possible to appraise compliance with the principles of subsidiarity and proportionality, provide an assessment of the proposal's financial impact, and give reasons substantiated by qualitative and where possible quantitative indicators to demonstrate why the objective of the proposal can better be achieved by action at Union level. In place of such a statement is an overreliance on a flawed public consultation. As the Commission itself acknowledges, "evidence is not conclusive as to whether the benefits of summer time arrangements outweigh the inconveniences linked to a biannual change of time", leaving room to doubt that a fully harmonised approach which precludes seasonal time changes is necessary.
- ii. Given that the proposed Directive would not (and cannot) remove all time differentials between Member States which result from their different time zones, there is no sufficient justification to remove the option for Member States, in accordance with their local conditions, to retain seasonal clock changes.
- iii. The public consultation carried out by the Commission assumed that summer time arrangements across the EU must be fully harmonised, meaning that it only presented two possible options: preserving the status quo and requiring all Member States to change their clocks at the same time in the spring and the autumn or abandoning seasonal time changes altogether.<sup>22</sup> We consider that the Commission should also have explored (or sought views on) a third option which would leave open the possibility for each Member State to decide for itself, at national level, whether to change clocks twice a year but, require those Member States choosing this option to act in a coordinated way. This approach would be more in keeping with the spirit and purpose of the first Directive (adopted in 1980)—*to coordinate seasonal time variations already decided on by Member States at national level*—whilst remaining within the competence conferred by Article 114 TFEU and respecting the principle of subsidiarity.

We question whether the public consultation is genuinely representative of opinion across all Member States, given that only three Member States accounted for 84% of the total

responses, or is sufficiently comprehensive to take into account the regional and local dimension of discontinuing seasonal time changes. The Commission's haste to legislate also reduces the opportunity for Member States to carry out their own public consultation at national level and assess the impact of the action proposed on regional and local authorities.



House of Commons  
European Scrutiny Committee

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## Ending Seasonal Changes of Time Directive

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Forty-second Report of Session 2017–19

Document considered by the Committee on 31 October 2018,  
including the following recommendation for debate:

Ending Seasonal Changes of Time Directive

*Report, together with formal minutes*

*Ordered by the House of Commons  
to be printed 31 October 2018*

HC 301-xli  
Published on 2 November 2018  
by authority of the House of Commons

## Notes

### Numbering of documents

Three separate numbering systems are used in this Report for European Union documents:

Numbers in brackets are the Committee's own reference numbers.

Numbers in the form "5467/05" are Council of Ministers reference numbers. This system is also used by UK Government Departments, by the House of Commons Vote Office and for proceedings in the House.

Numbers preceded by the letters COM or SEC or JOIN are Commission reference numbers.

Where only a Committee number is given, this usually indicates that no official text is available and the Government has submitted an "unnumbered Explanatory Memorandum" discussing what is likely to be included in the document or covering an unofficial text.

### Abbreviations used in the headnotes and footnotes

AFSJ	Area of Freedom Security and Justice
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
ECA	European Court of Auditors
ECB	European Central Bank
EEAS	European External Action Service
EM	Explanatory Memorandum (submitted by the Government to the Committee)*
EP	European Parliament
EU	European Union
JHA	Justice and Home Affairs
OJ	Official Journal of the European Communities
QMV	Qualified majority voting
SEM	Supplementary Explanatory Memorandum
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

### Euros

Where figures in euros have been converted to pounds sterling, this is normally at the market rate for the last working day of the previous month.

### Further information

Documents recommended by the Committee for debate, together with the times of forthcoming debates (where known), are listed in the European Union Documents list, which is published in the House of Commons Vote Bundle each Monday, and is also available on the parliamentary website. Documents awaiting consideration by the Committee are listed in "Remaining Business": [www.parliament.uk/escom](http://www.parliament.uk/escom). The website also contains the Committee's Reports.

\*Explanatory Memoranda (EMs) and letters issued by the Ministers can be downloaded from the Cabinet Office website: <http://europeanmemoranda.cabinetoffice.gov.uk/>.

#### Staff

The staff of the Committee are Jessica Mulley (Clerk), Kilian Bourke, Alistair Dillon, Leigh Gibson, Foeke Noppert, Sibel Taner and George Wilson (Clerk Advisers), Arnold Ridout (Counsel for European Legislation), Joanne Dee and Emily Unwin (Deputy Counsels for European Legislation), Jeanne Delebarre (Second Clerk), Daniel Moeller (Senior Committee Assistant), Sue Beeby, Nat Ireton and Beatrice Woods (Committee Assistants), Ravi Abhayaratne and Paula Saunderson (Office Support Assistants).

#### Contacts

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# 1 Ending seasonal changes of time directive

Committee's assessment	Legally and politically important
Committee's decision	Not cleared from scrutiny; draft Reasoned Opinion recommended for debate in European Committee C before the deadline for submitting a Reasoned Opinion expires on 13 November 2018; further information requested; drawn to the attention of the Business, Energy and Industrial Strategy Committee and the Committee on Exiting the European Union
Document details	Proposal for a Directive discontinuing seasonal changes of time and repealing Directive 2000/84/EC
Legal base	Article 114 TFEU, ordinary legislative procedure, QMV
Department	Business, Energy and Industrial Strategy
Document Number	(40063), 12118/18 + ADD I, COM(18) 639

## Summary and Committee's conclusions

1.1 There are three standard time zones within the EU: Western European or Greenwich Mean Time (GMT) covering the UK, Ireland and Portugal; Central European Time (GMT+1) covering 17 Member States; and Eastern European Time (GMT+2) covering eight Member States. These standard time zones are varied by seasonal or "summer time" changes, when clocks move forward an hour in the spring to make better use of natural daylight. By the end of the 1970s, all Member States had introduced summer time or "daylight saving" arrangements, some to cut down on energy consumption in response to the oil crisis, others to align with their closest trading partners. Concerned that uncoordinated seasonal time changes might disrupt trade, transport and communications within the EU's common market, Member States agreed gradually to harmonise the dates on which seasonal time changes would begin and end each year.<sup>1</sup> Since 1981, the start of summer time—the date on which clocks move forward by one hour—has been fixed as the last Sunday in March. The date on which clocks move back by an hour to standard or "winter" time was not fully harmonised until 1996. Before then, summer time hours applied for longer in the UK and Ireland, ending on the last Sunday in October rather than the last Sunday of September as in the other Member States. Since 1996, all Member States have moved their clocks back by an hour on the last Sunday in October.<sup>2</sup>

1.2 The benefits of seasonal time changes are contested. In February 2018, the European Parliament called on the European Commission to review the existing summer time arrangements, whilst underlining the need to maintain "a unified EU time regime".<sup>3</sup> The Commission launched a short, six-week online public consultation in July,<sup>4</sup> inviting

1 See Council Directive 80/737/EEC on summertime arrangements.

2 The current rules on summertime arrangements are set out in Council Directive 2000/84/EC.

3 See the European Parliament's Resolution of 8 February 2018 on time change arrangements.

4 Most public consultations run for 12 weeks.

stakeholders to choose between two options: maintaining existing EU-wide arrangements for switching between summer and winter time at the end of March and October, or abandoning seasonal clock changes across the EU. The consultation generated an unprecedented response—4.6 million valid questionnaires were submitted—with a majority (84%) indicating that they opposed the current system for changing clocks twice a year, citing human health as the principal benefit of moving to permanent summer or winter time arrangements. Opinion was more divided on which arrangement would be preferable, with 56% favouring permanent summer time, 36% favouring permanent standard (winter) time, and 8% expressing no view.

1.3 In his *State of the Union* speech in September 2018, Commission President Jean-Claude Juncker reiterated his commitment to a European Union which is “big on big things and small on small things”, adding:

But there will be no applause in May 2019 [the date of the next European Parliament elections] when EU law dictates that Europeans have to change their clocks twice a year. Clock-changing must stop. Member States should themselves decide whether their citizens live in summer or winter time. It is a question of subsidiarity.

1.4 The Commission has therefore put forward a proposed Directive which would end seasonal clock changes on a coordinated basis throughout the EU in 2019 and “give Member States the freedom to decide once and for all whether they want to permanently apply summer or winter time”.<sup>5</sup> The Commission cites studies which indicate that the overall energy savings from the shift to summer time hours are “marginal” and the impact in other areas such as human health, road safety and agriculture uncertain.<sup>6</sup> By contrast, it asserts there is conclusive evidence that harmonised EU rules are necessary for the effective functioning of the EU’s internal market and that uncoordinated time changes would be detrimental, resulting in “higher costs to cross-border trade, inconveniences and possible disruption in transport, communications and travel, and lower productivity in the internal market for goods and services”.<sup>7</sup> Accordingly, the proposed Directive cites an internal market legal base—Article 114 of the Treaty on the Functioning of the European Union (TFEU)—reflecting the Commission’s view that common rules are necessary to avoid the fragmentation that would ensue if some, but not all, Member States continued to apply seasonal clock changes.<sup>8</sup>

1.5 Under the Commission’s proposal:

- all Member States would (as now) switch to summer time on the last Sunday in March 2019;
- Member States would have a “one-off” option of switching back to standard (winter) time on the last Sunday in October 2019 but would have to alert the Commission of their intention to do so at least six months before the change takes effect (so no later than 27 April 2019) so that sufficient notice could be given to other Member States; and

<sup>5</sup> See the European Commission’s *press release* on seasonal clock changes issued on 12 September 2018.

<sup>6</sup> See pp.4–5 of the Commission’s explanatory memorandum accompanying the proposed Directive.

<sup>7</sup> See p.3 of the Commission’s explanatory memorandum accompanying the proposed Directive.

<sup>8</sup> All EU legislation on summer time arrangements has been based on a common/internal market legal base.

- the choices made by Member States in 2019 would be permanent, meaning that they would have to decide to opt for permanent summer or winter time arrangements, without the possibility of introducing any seasonal variation in subsequent years.

1.6 The proposed Directive would only prevent Member States from applying *seasonal* time changes—it would not prevent them from changing their standard time by switching time zones. However, any change in time zone would also have to be notified in advance to the Commission so that it would have sufficient opportunity to inform other national authorities, economic operators and citizens.

1.7 The Commission anticipates that the Council and European Parliament (“EP”) will support the changes proposed and formally adopt the Directive no later than March 2019 so that its provisions take effect in national law by 1 April 2019 (ahead of the next EP elections in May 2019). If this ambitious timescale is met, the UK would be required under the terms of the draft EU/UK Withdrawal Agreement to implement the Directive during a post-exit transition/implementation period (ending on 31 December 2020) and to decide by 27 April 2019 whether to switch permanently to British Summer Time (GMT+1) or to remain on standard (GMT) time all year round.

1.8 In her Explanatory Memorandum of 11 October 2018, the Parliamentary Under-Secretary of State at the Department for Business, Energy and Industrial Strategy (Kelly Tolhurst) confirms that the proposed Directive would not affect Member States’ competence to determine their time zones but would prevent them from changing their clocks twice yearly. She considers that Article 114 TFEU is an appropriate legal base for the proposal, noting:

Were the Member States to have exclusive competence in this area there is a risk of uncoordinated changes in time across the Union, which could be detrimental to the internal market.

1.9 Whilst accepting that “the evidence to support maintaining harmonisation of time in the Union is strong”, she says that existing EU rules already achieve this objective and the Commission “does not demonstrate how the proposal would enhance this”. She considers that “the argument for harmonisation alone is not sufficient to justify the proposal” and that a strong evidence base to support the changes proposed and the benefits for the EU, Member States and citizens is lacking.

1.10 The Minister recognises that the proposed Directive is likely to be of interest to the Devolved Administrations. Existing EU laws on summer time arrangements have been implemented on a UK-wide basis (Great Britain and Northern Ireland) by the Summer Time Order 2002 which amends the Summer Time Act 1972. Whilst “timescales, time zones and the subject matter of the Summer Time Act 1972 are reserved to Westminster for Scotland and Wales”, the Minister notes that there is “no equivalent reservation or exception for Northern Ireland”. The Northern Ireland Act 1998 provides, however, that obligations under EU law are an excepted matter.

## Our conclusions

1.11 The EU's membership has nearly tripled in size since the first EU Directive on seasonal time changes was adopted in 1980 and now covers three (rather than two) time zones. Given this geographical and temporal spread and the differential impact of seasonal time changes across the EU and within individual Member States, there is a case for reviewing existing arrangements. The unprecedented response to the Commission's recent public consultation on summer time arrangements, as well as pressure from some Member States and the European Parliament for a review, indicate that there is some appetite for change.<sup>9</sup> We nonetheless question whether the EU has the competence to adopt the specific changes proposed and whether the Commission has demonstrated that they are a necessary or proportionate means to ensure the proper functioning of the EU's internal market. We therefore recommend that the House of Commons issue a Reasoned Opinion before the deadline of 13 November 2018 and ask the Minister to arrange a debate as a matter of urgency, noting that the House will be in recess from 7–9 November 2018.

### Competence to act

1.12 We recognise that time variations may have some impact on the effective functioning of the EU's internal market, particularly in sectors of the economy involving frequent cross-border activity. As the first recital of the Commission's proposed Directive recognises, the original decision to extend daylight hours during the summer months was taken by each Member State at national level.<sup>10</sup> The rationale for successive EU laws dating back to 1980 was not therefore to determine whether there should be seasonal time changes but to *coordinate* the dates on which seasonal time changes decided on at national level should begin and end to minimise any harmful effects on the functioning of the common (and later) internal market. The effect of these laws has been to lock in harmonised summer time arrangements across the EU for the best part of four decades. Whilst extensive precedent establishes that the EU has competence under Article 114 TFEU to coordinate the transition to and from summer time across the Union, we question whether it also has the competence to divest Member States permanently of the power to determine at national level whether seasonal time changes are necessary and to prevent them from maintaining (or, in the future, re-introducing) seasonal time changes.

1.13 We note that in circumscribing the scope of the powers conferred on the EU by Article 114 TFEU, the Commission appears to draw a distinction between seasonal time changes, for which it claims the EU has competence to act, and time zones which it accepts are an exclusive Member State competence.<sup>11</sup> The proposed Directive would eliminate seasonal time variations but differences in standard time (based on each Member State's time zone) would remain. Contrary to the Minister's assertion, EU law does not "ensure harmonisation of time across the Union". The Commission does not

9 See the European Commission's public consultation on summertime arrangements. The Commission reports that Finland has called for seasonal time changes to be abandoned and Lithuania has suggested that the current system should "take into account regional and geographical differences".

10 Recital (1) states: "Member States chose in the past to introduce summer time arrangements at national level".

11 See recital (5) of the proposed Directive which states that EU action "should not prejudice the right of each Member State to decide on the standard time or times for the territories under its jurisdiction and falling under the territorial scope of the Treaties, and on further changes thereto".

explain how seasonal time variations are any more detrimental to the operation of the internal market than different time zones and why there is a clear market rationale to intervene on one but not the other.

1.14 It is not clear to us whether the Minister considers that Article 114 TFEU only allows the EU to act where there is “a risk of uncoordinated changes in time across the Union” or whether it also empowers the EU to prevent Member States from applying any seasonal time variations.<sup>12</sup> We would welcome a more detailed analysis of the scope of the EU’s powers under Article 114 TFEU.

### *Subsidiarity and proportionality*

1.15 The Commission President has presented the proposed Directive as an exercise in subsidiarity, stating that “Member States should themselves decide whether their citizens live in summer or winter time”.<sup>13</sup> We question whether the Commission has provided a sufficient evidence base to demonstrate that the changes proposed are necessary or that they are justified by the scale of the benefits for EU citizens.

### *Insufficient evidence base for EU action*

1.16 The Commission cites “increased questioning” of the current arrangements, reflected in the unprecedented response to its online public consultation on summer time arrangements, as a justification for the proposed action.<sup>14</sup> It acknowledges that this type of consultation has “a self-selection bias” which needs to be factored into any evaluation of the results, especially where (as in this case) there is likely to be a strong correlation with the geographical spread of the respondents, but has proposed an abridged timetable for adopting the proposed Directive which leaves little room for more extensive or balanced consultation.<sup>15</sup> We note that the UK had one of the lowest response rates and three Member States—Germany, France and Austria—accounted for 84% of the total responses. We question whether the consultation is genuinely representative of opinion across all Member States or provides a sufficient evidence base for the action proposed by the Commission. Nor does it demonstrate that the changes proposed are justified by the scale of the benefits for EU citizens. As the Commission itself acknowledges, “evidence is not conclusive as to whether the benefits of summer time arrangements outweigh the inconveniences linked to a biannual change of time”, leaving room to doubt that a fully harmonised approach is necessary.<sup>16</sup>

### *Is harmonisation the best option?*

1.17 The public consultation carried out by the Commission assumed that summer time arrangements across the EU must be fully harmonised, meaning that it only presented two possible options: preserving the status quo and requiring all Member States to

12 See para 17 of the Minister’s Explanatory Memorandum.

13 See his *State of the Union* speech delivered in September 2018.

14 See recital (4) of the proposed Directive and p.2 of the Commission’s explanatory memorandum accompanying the proposed Directive.

15 For example, data published by the Commission indicate a very high level of support (above 90%) for discontinuing seasonal time changes amongst respondents in Finland, Poland, Spain and Lithuania but a small majority in Cyprus and Greece (where the impact of seasonal time changes on daylight hours is less marked) wishing to maintain the current system. See the Commission’s accompanying *Staff Working Document—ADD 1*.

16 See recital (3) of the proposed Directive.

change their clocks at the same time in the spring and the autumn or abandoning seasonal time changes altogether.<sup>17</sup> The Commission did not explore (or seek views on) a third option: leaving open the possibility for each Member State to decide for itself, at national level, whether to change clocks twice a year but requiring Member States choosing this option to act in a coordinated way. We consider that this approach would be more in keeping with the spirit and purpose of the first Directive (adopted in 1980)—to coordinate seasonal time variations already decided on by Member States at national level—whilst remaining within the competence conferred by Article 114 TFEU and respecting the principle of subsidiarity.

### *The regional dimension*

1.18 There has been extensive debate in the UK on the pros and cons of British Summer Time, not least because the impact of seasonal time varies in the different parts of the UK. This reinforces the need for an extensive public consultation at Member State level which ensures that the regional and local dimension of any action proposed is taken fully into account, as required under Article 2 of Protocol 2 to the EU Treaties on the application of the principles of subsidiarity and proportionality. The Commission's haste to legislate will make this difficult.

1.19 Given these concerns, we ask the Minister to:

- explain whether the Commission's online consultation was well-publicised in the UK, how many responses were submitted from the UK and how much support there was for each of the options presented by the Commission;
- indicate whether the Government intends to carry out its own consultation, given the possibility that the UK would be under an obligation to implement the Directive if adopted in the timescale envisaged by the Commission;<sup>18</sup> and
- provide further information on the position of the Devolved Administrations on the proposed changes and clarify the extent to which they have powers to apply seasonal time changes (as opposed to powers to determine their time zone).

### *Brexit implications*

1.20 We ask the Minister whether she considers the Commission's timetable for adopting and bringing into effect the Directive is realistic and, if it is, to explain:

- the factors which would inform the Government's decision in determining whether to opt for permanent summer or winter (standard) time arrangements, including the significance of the choices made by the UK's closest trading partners (particularly the Republic of Ireland); and

17 See p.2 of the Commission's explanatory memorandum accompanying the proposed Directive which states: "Given the increased questioning of the current summer time arrangements, the only alternative available to continue ensuring a harmonised approach is a coordinated abolishment of biannual clock changes".

18 This also depends on the EU and the UK agreeing to a post-exit transition period during which EU laws would continue to apply as part of the UK's exit negotiations.

- how likely it is that the UK would be locked into permanent summer or winter time arrangements as part of any post-exit market access or market integration agreement negotiated with the EU; or
- whether the Government anticipates that the UK would be free to reintroduce seasonal time variations once any post-exit transition/implementation period has expired.

1.21 Pending further information, the proposed Directive remains under scrutiny. We draw this chapter to the attention of the Business, Energy and Industrial Strategy Committee and the Committee on Exiting the European Union.

### Full details of the documents:

Proposal for a Directive discontinuing seasonal changes of time and repealing Directive 2000/84/EC: (40063), [12118/18](#) + [ADD 1](#), COM(18) 639.

### Background

1.22 The Minister's Explanatory Memorandum provides a brief overview of British Summer Time (BST) arrangements in the UK:

BST has changed on several occasions over the 20th century, from double summer time during the Second World War (GMT+2) to continuous summer time (GMT+1) all year round between 1968–1971. The British Summer Time Act was passed in 1972 which started the tradition of changing the clocks in late March and late October. The Summer Time Order 2002 implemented Directive 2000/84/EC in the UK, which stipulated that all Member States adjust their clocks on the last Sunday in March and October.

### Previous Committee Reports

None.



## Annex: Reasoned Opinion of the House of Commons

Submitted to the Presidents of the European Parliament, the Council and the Commission pursuant to Article 6 of Protocol (No. 2) on the Application of the Principles of Subsidiarity and Proportionality.

### Concerning

**a Proposal for a Directive of the European Parliament and of the Council discontinuing seasonal changes of time and repealing Directive 2000/84/EC**

The United Kingdom House of Commons considers that the proposed Directive fails to meet the requirements of Article 5(3) of the Treaty on European Union<sup>19</sup> and Article 5 of Protocol (No. 2) on the Application of the Principles of Subsidiarity and Proportionality<sup>20</sup> for the following reasons:

- i) We do not consider that there is a sufficient evidence base to justify the discontinuation of seasonal changes of time in terms of the internal market objective of the proposal. There is not the detailed statement required by Article 5 of Protocol 2 in the proposal itself or in the Commission's accompanying explanatory memorandum and staff working document. Such a statement should make it possible to appraise compliance with the principles of subsidiarity and proportionality, provide an assessment of the proposal's financial impact, and give reasons substantiated by qualitative and where possible quantitative indicators to demonstrate why the objective of the proposal can better be achieved by action at Union level. In place of such a statement is an overreliance on a flawed public consultation. As the Commission itself acknowledges, "evidence is not conclusive as to whether the benefits of summer time arrangements outweigh the inconveniences linked to a biannual change of time", leaving room to doubt that a fully harmonised approach which precludes seasonal time changes is necessary.<sup>21</sup>
- ii) Given that the proposed Directive would not (and cannot) remove all time differentials between Member States which result from their different time zones, there is no sufficient justification to remove the option for Member States, in accordance with their local conditions, to retain seasonal clock changes.
- iii) The public consultation carried out by the Commission assumed that summer time arrangements across the EU must be fully harmonised, meaning that it only presented two possible options: preserving the status quo and requiring all

19 Article 5(3) TEU provides: "Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level."

20 Article 5 of Protocol No.2 provides: "Draft legislative acts shall be justified with regard to the principles of subsidiarity and proportionality. Any draft legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. This statement should contain some assessment of the proposal's financial impact and, in the case of a directive, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation. The reasons for concluding that a Union objective can be better achieved at Union level shall be substantiated by qualitative and, wherever possible, quantitative indicators. Draft legislative acts shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved."

21 See recital (3) of the proposed Directive.

Member States to change their clocks at the same time in the spring and the autumn or abandoning seasonal time changes altogether.<sup>22</sup> We consider that the Commission should also have explored (or sought views on) a third option which would leave open the possibility for each Member State to decide for itself, at national level, whether to change clocks twice a year but, require those Member States choosing this option to act in a coordinated way. This approach would be more in keeping with the spirit and purpose of the first Directive (adopted in 1980)—*to coordinate seasonal time variations already decided on by Member States at national level*—whilst remaining within the competence conferred by Article 114 TFEU and respecting the principle of subsidiarity.

We question whether the public consultation is genuinely representative of opinion across all Member States, given that only three Member States accounted for 84% of the total responses, or is sufficiently comprehensive to take into account the regional and local dimension of discontinuing seasonal time changes. The Commission's haste to legislate also reduces the opportunity for Member States to carry out their own public consultation at national level and assess the impact of the action proposed on regional and local authorities.

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22. See p.2 of the Commission's explanatory memorandum accompanying the proposed Directive which states: "Given the increased questioning of the current summer time arrangements, the only alternative available to continue ensuring a harmonised approach is a coordinated abolishment of biannual clock changes".

## Formal Minutes

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**Wednesday 31 October 2018**

Members present:

Sir William Cash, in the Chair

Martyn Day	Mr David Jones
Marcus Fysh	Andrew Lewer
Kelvin Hopkins	Michael Tomlinson

### Scrutiny Report

Draft Report, proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1.1 to 1.22 read and agreed to.

Annex agreed to.

Summary agreed to.

*Resolved*, That the Report be the Forty-second Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

[Adjourned till Wednesday 14 November at 1.45pm]

## Standing Order and membership

The European Scrutiny Committee is appointed under Standing Order No.143 to examine European Union documents and—

- a) to report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;
- b) to make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Committees); and
- c) to consider any issue arising upon any such document or group of documents, or related matters.

The expression "European Union document" covers —

- i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;
- ii) any document which is published for submission to the European Council, the Council or the European Central Bank;
- iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;
- iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;
- v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;
- vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

The Committee's powers are set out in Standing Order No. 143.

The scrutiny reserve resolution, passed by the House, provides that Ministers should not give agreement to EU proposals which have not been cleared by the European Scrutiny Committee, or on which, when they have been recommended by the Committee for debate, the House has not yet agreed a resolution. The scrutiny reserve resolution is printed with the House's Standing Orders, which are available at [www.parliament.uk](http://www.parliament.uk).

**Current membership**

Sir William Cash MP (Conservative, Stone) (Chair)  
Geraint Davies MP (Labour/Cooperative, Swansea West)  
Martyn Day MP (Scottish National Party, Linlithgow and East Falkirk)  
Steve Double MP (Conservative, St Austell and Newquay)  
Richard Drax MP (Conservative, South Dorset)  
Mr Marcus Fysh MP (Conservative, Yeovil)  
Kate Green MP (Labour, Stretford and Urmston)  
Kate Hoey MP (Labour, Vauxhall)  
Kelvin Hopkins MP (Independent, Luton North)  
Darren Jones MP (Labour, Bristol North West)  
Mr David Jones MP (Conservative, Clwyd West)  
Stephen Kinnock MP (Labour, Aberavon)  
Andrew Lewer MP (Conservative, Northampton South)  
Michael Tomlinson MP (Conservative, Mid Dorset and North Poole)  
David Warburton MP (Conservative, Somerton and Frome)  
Dr Philippa Whitford MP (Scottish National Party, Central Ayrshire)