



FÉDÉRATION EUROPÉENNE DES MÉDECINS SALARIÉS
EUROPEAN FEDERATION OF SALARIED DOCTORS

Dr Bojan Popovic, Secretary General

Date:	19 January 2013	Document:	F13-003 EN
Title:	Compilation on the Situation in Slovakia (Autumn 2012)		
Authors:	Miscellaneous, compilation by Bojan Popovic		

Dear Pavel

of course I am ready to write.

Or better, to sign a document that you will write, (I hope in English :-))

I would like to understand more, but concisely, what is the matter between the Direction and the doctors.

In other words: what is the fact that conflicts with the Slovakian rules.

I will read with much attention the letter of our colleagues, but, at first sight it is very technical and, not being an expert in your national rules and contracts, it takes me some time.

Enrico

Inviato da iPad

Il giorno 21/nov/2012, alle ore 09:48, Pavel Oravec <oravec.ths@gmail.com> ha scritto:

Dear all,

For information and an explanation of the whole situation I send you the official letter about the situation in Žilina Hospital sent by our basic organisation in Žilina- below. It was sent to Ministry of Health of Slovak Republic /of course, she knows about this situation :-)/, Prime Minister of SR, President of Parliament of SR, President of SR, Chairman of Health Committee in Slovak Parliament, President of Slovak Medical Chamber, President of European Parliament, President of European Commission, Commissioner for health in European Commission, President of FEMS- by official post office.

We need, from our european partners, an expression of condemnation of violations of the Labour Code in relation to schedule the working time unevenly at the hospital Žilina and outrage over the procedure against trade union officials /specific Dr.Blaško/ as well as other doctors at the Žilina Faculty hospital by the management and hospital director. This is an absolutely unprecedented interference with freedom of trade union associations in Slovakia and a mockery and a slap to the social dialogue.

I would like to ask you send a letter with the expression of the opinion to situation as I described, to Minister of Health of Slovak Republic /Zuzana Zvolenská, Minister of Health of Slovak Republic, Ministerstvo zdravotníctva SR, Limbová 2, P.O. BOX 52, 837 52 Bratislava 37, e-mail: office@health.gov.sk/ and to the Director of the Faculty Hospital in Žilina /MUDr. Štefan Volák, riaditeľ, Fakultná nemocnica s poliklinikou Žilina, ul.Vojtecha Spanyola 43, 012 07 Žilina, e-mail: sekretariat.r@fnspza.sk/ or to another address by your opinion, which we will publish in the media.

Best regards

Pavel

The letter:

1. Primary Trade Union Organization of Nurses and Obstetricians at Faculty Hospital with Policlinics in Žilina, head-office in 012 07 Žilina, ul. Vojtecha Spanyola No. 43, Identification

No. of Organization: 42222478, represented by the chairperson of the organization Mgr. Monika Kavecká

2. Primary Trade Union Organization of the Slovak Trade Union of Health Service and Social Services at the Faculty Hospital with Policlinics in Žilina, head-office in 012 07 Žilina, ul. Vojtecha Spanyola No. 43, Identification No. of Organization: 00683949, represented by the chairperson of the organization Bc. Jozefína Súkeníková

3. Slovak Medical Trade Union Organization at the Faculty Hospital with Policlinics in Žilina, head-office in 012 07 Žilina, ul. Vojtecha Spanyola No. 43, Identification No. of Organization: 42218357, represented by the chairperson of the organization MUDr. Peter Blaško

The signed statutory representatives of the trade union organizations working at the the Faculty Hospital with Policlinics in Žilina (FHwP), head-office in 012 07 Žilina, ul. Vojtecha Spanyola No. 43, Identification No. of Organization: 17335825 (hereinafter only “ employer“ or „FHwP Žilina“) after having become acquainted with the Order of Director of 24 th October 2012 by which the organization of work has been altered in individual departments of the FHwP Žilina, in accordance with § 230 of the Code of Labour and in accordance with the Agreement concerning Mutual Help and Cooperation concluded between the above given trade union organizations on 4th October 2012 adopt the following to the Order of Director by which the organization of work has been altered in individual departments of the FHwP Žilina of 24th October 2012:

A. Facts

A.1 In accordance with § 84, section 1 of the Labour Code the employer can issue the order of work after the preceding agreement of the representatives of employees, otherwise it is invalid.

A.2 In accordance with § 84, section 3 of the first sentence of the Labour Code the order of work is obligatory for the employer and all his employees.

A.3 In accordance with § 87 of the Labour Code the employer can schedule the working time unevenly after the agreement with the representatives of employees or after the agreement with an employee.

A.4 In accordance with Article 21 point 1 of the valid Order of Work of FHwP Žilina of 28th June 2010, Second Sentence the working time can be scheduled unevenly for the following kinds of work:

- nurse

- obstetrician

- assistant

- scrub nurse

- employee of the telephone switchboard

- porter

A.5 In accordance with Article 45, point 1 of the Order of Work of FHwP Žilina of 28th June 2010 (hereinafter only Work Order of FHwP Žilina) the employer can make the alterations and amendments in the work order only after the preceding agreement with the trade union organ.

A.6 In accordance with the § 54, sentence 1 of the Labour Code the upon-agreed contents of the employment contract can be altered only in case if the employer and the employee agree upon its alteration.

A.7 In accordance with § 39 of Civil Code the legal act is invalid which by its contents or purpose is contrary to the law or it circumvents the law or it contradicts morality.

B. Analysis

1. In the Order of Work of the FHwP Žilina it is exactly taxably calculated for what kinds of work the working time of the employees of the FHwP Žilina after the agreement with the representatives of the trade union organizations can be scheduled unevenly for an uninterrupted working regime in accordance with §87 of the Labour Code. From the given follows that the employer – the FHwP Žilina represented by the statutory organ director – cannot alter by any legal act without the agreement with the trade union organizations the established working time for the rest of the employees of the FHwP Žilina and cannot order them to work in uninterrupted working regime or even if only in working shifts in accordance with §90 of the Labour Code. If the employer – the FHwP Žilina – wanted to achieve the introduction of the interrupted working regime for all the employees of the FHwP Žilina in whatever of its departments, he would have to agree upon it with the trade unions and the Work Order would have to be altered in this wording by the given addition.

Any unilateral legal act of the employer – the FHwP Žilina represented by its director – concerning the introduction of the uneven division of the working time, is absolutely an invalid legal act.

2. The employment contract of every employee with every employer, that is to say, that every employment contract of every employee of the FHwP Žilina, is a bilateral legal act containing various conditions in accordance with § 43 and consequently the Labour Code. These conditions

of the employment contract cannot be altered by a unilateral legal act of the employer. The agreed upon contents of the employment contract can be altered only in case if the employer and the employee agree upon its alteration in accordance with § 54 of the Labour Code. The employer – the FHwP Zilina represented by its statutory organ –director – cannot perform any unilateral legal act and alter the valid contents of the employment contract of the employee of the FHwP Zilina if to its conditions belong also:

a/ Agreement concerning the realization of the institutional emergency services in a calendar month having a form of working emergency

b/ Agreement concerning the performance of work overtime

Any unilateral legal act of the employer – the FHwP Zilina represented by its statutory organ – director – regarding the abolition (completion) of the agreed upon institutional emergency services and regarding the abolition (completion) of the agreed upon work overtime in the employment contracts with the employees of the FHwP Zilina, is absolutely an invalid legal act.

3. Absolutely invalid is the legal act which is not permitted. Such an unlawfulness and so the absolute invalidity of legal act is in such a case when it contradicts by its contents or by its purpose to the law (is contra legem). By the law it is meant not only the Civil Code but also other legal prescriptions which have the strength of law. Without doubt the Code of Labour belongs also there which moreover has the character of Codex. The absolutely invalid legal act is considered to be void, it means as such, which has not come to exist and so for any person (physical person or body corporate) have not occur any rights or obligations. That is why, since the Roman law, the rule has been valid in the European legal orders, for someone it might be, surprisingly, it is even in Slovakia: “Nemo tenetur ad impossibile”.

4. Trying to introduce the uneven division of working time unilaterally, the unilateral abolition (completion) of the performance of institutional emergency services and the unilateral abolition (completion) of the agreed upon work overtime in the employment contracts of the employees of the FHwP Zilina from the side of the employer – the FHwP Zilina in the form of the Order of Director, by which the organization of work is being altered in individual departments of the FHwP Zilina of 24th October 2012 with regard to the given reality is absolutely an invalid legal act, it means, it is void and it does not exist.

With regard to the absolutely invalid legal act of the employer – the FHwP Zilina – the management does not have the right to ask the senior consultants of departments to secure to realize the uneven division of working time in relation to any employee and no senior consultant of the given department is obliged to ensure the performance of the uneven division of working time in accordance with the Order of Director by which the organization of work is being altered in the individual departments of 24 th October 2012. If any senior consultant tried to do so in relation to any employee, he would be, at the same time, responsible for the violation of the legal instructions at the FHwP Zilina.

C. Stand point

The trade union organizations want to inform the employees of the FHwP Zilina, that the Order of Director by which the organization of work is being altered in individual departments of the FHwP Zilina of the 24th October 2012 is in the matter of the introduction of the uneven division of working time, the abolition (completion) of the agreed upon institutional emergency services and in the matter of the abolition (completion) of the agreed upon work overtime for all the employees of the FHwP Zilina given in the Order of Director of 24th October 2012 by which the organization of work in individual departments is being altered absolutely an invalid legal act which is void and so it has not come into existence. From the given follows that it does not apply to any employee of the FHwP Zilina given in the Order of Director of 24th October 2012 by which the organization of work is being altered in individual departments of the FHwP Zilina:

a/ to perform his/her working time in accordance with uneven division of working time

b/ not to continue in the performance of the contracted institutional emergency services and agreed upon work overtime in accordance with the valid employment contracts

c/ to ensure the performance of the uneven division of the working time in accordance with § 90 of the Labour Code by the concerned senior consultants of the concerned departments.

In Zilina, 30th October 2012

Mgr. Monika Kavecká

Bc. Jozefína Súkeníková

MUDr. Peter Blaško

Dňa 21. novembra 2012 5:25, zerbib <jp.zerbib@orange.fr> napísal(-a):

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HUNGARIAN PHYSICIAN LEAGUE

President: Dr. Bélteczki János President of the Supervisory Committee: Dr. Hollós Gábor
Vice president: Dr. Lerch Ferenc member: Dr. Dóbi István
Dr. Hadik György

Zuzana Zvolenska

Minister of Health of Slovak Republic
Ministerstvo zdravotníctva
Limbova2.
83752 Bratislava 37
office@health.gov.sk

22.11.2012. Budapest

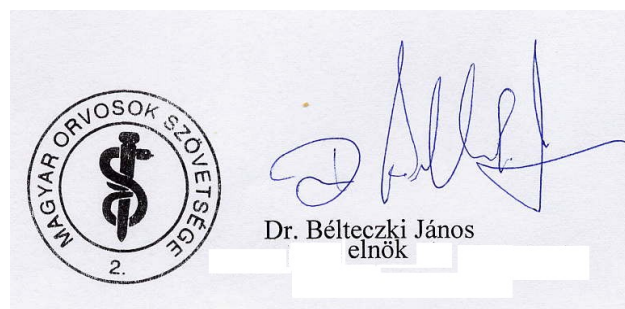
Dear Minister,

With a maximum indignation, we have adopted in the Hungary report that it can be used totalitarian practices violating applicable legal standards / Labour Code/ and tramples on principles of European democracy, even in 2012, in order to get rid of uncomfortable doctors' trade union representative by hospital director.

We fundamentally reject these practices and call superior authorities for prompt correction of the situation and draw personal responsibility, because otherwise there is disruption of social peace necessary for the functioning of the hospital.

MUDr Bélteczki János
President of MOSZ

Kind regards:



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Dear all,

Let me inform about the letter which was sent by Martin Engel from Czech Republic to Minister of Health of SR and director of Hospital in Žilina.

Translation of the letter, which is attached:

"With a maximum indignation, we have adopted in the Czech Republic report that it can be used totalitarian practices violating applicable legal standards / Labour Code/ and tramples on principles of European democracy, even in 2012, in order to get rid of uncomfortable doctors' trade union representative by hospital director.

We fundamentally reject these practices and call superior authorities for prompt correction of the situation and draw personal responsibility, because otherwise there is disruption of social peace necessary for the functioning of the hospital."

Martin Engel, The President of LOK-SČL, Czech Republic

Let me explain the situation little bit more,

The director of Faculty Hospital in Žilina is abolishing departments, trade union disagrees, patients too. Also trade union disagrees with the reduction of salaries for on-call duties. Blaško's department /urology/ is not involved to abolishing, despite director asks the union to agree to his release because of his alleged redundancy. This reason is a lie, of course. Of course the director will not get the consent for release Peter. Peter is protected as a trade union official by the Labor Code. This is intimidation and pressure on other colleagues with the aim to manipulate and spread the fear among doctors, and stop them to engage in trade union activity. Laws in the European Union and Slovakia too guarantee the freedom of expression and association, including the activities of trade unions and, in fact, without penalties from the employer or other bodies. Procedure, that is to the contrary with this, tramples on principles of European democracy.

Other doctors in Žilina have received notices also. According to the doctors, the hospital management wants to punish them for disobedience.

Dismissal are for those who refused to sign modified contracts. These relate to mergers of departments and the transition to irregular distribution of shift work that is done without the consent of the trade union, which is a violation of applicable Labour Code.

Blasko's chief in urology department /primary physician/ does not deem him as a superfluous. "Dr. Blasko makes Andrological clinic and we have no replacement for him. Certainly not superfluous and certainly will miss in our department," said Juraj Mikuláš primary physician of the department.

Ministry of Health of Slovak Republic: We know about the rationalization that takes place in hospitals, according to the Ministry of Health. "In Zilina not come to any non-standard situation, the audit of hospital abolishing redundant space, of course, with respect to the patient. So certainly there is no risk of health care," said department spokeswoman Zuzana Čižmáriková.

"The hospital managements create pressure on doctors to sign the agreement with overtime, but also circumvented the number of overtimes hours in order to formally remain within the limits set by the Labour Code" Claims the Trade Union of Doctors /LOZ/. Trade union officials alert the Minister of Health and directors of the hospitals that such such proceedings are in contrary to the Labour Code and European legislation. "

So this is a short conclusion of current situation in Slovakia.

We ask for the support because this could be a precedent in the functioning of trade unions.

Best regards

Pavel

----- Forwarded message -----

From: LOK-SČL <lok-scl@lok-scl.cz>

Date: 2012/11/21

Subject: Fw: LOK-SČL

To: Pavel Oravec <oravec.ths@gmail.com>

Cc: predseda@lok-scl.cz

Pro info...

----- Original Message -----

From: LOK-SČL

To: office@health.gov.sk

Sent: Wednesday, November 21, 2012 2:27 PM

Subject: LOK-SČL

Vážení,

z pokynu MUDr. Martina Engela, předsedy LOK-SČL, si Vám dovoluji v příloze zaslat dopis, který je adresován ministryni zdravotnictví.

S pozdravem

Irma Drobná

Kancelář Centra LOK-SČL

Drahobejlova 52

Praha 9

Dear friends,

I hope you have got enough informations about the current situation in Slovakia. I will keep informing you about further development.

A demonstration of doctors, nurses and public is planed on Monday, 26- th November 2012, at 15,30 hrs in front of Žilina Hospital. We want to point out the situation and protest against practices of the Director which happen, probably :-), with the knowledge of the Ministry of Health. We want save departments of hospital, which the director wants to abolish because doctors refused to sign modified and disadvantageous contracts and therefore they have got notices /together 19 doctors and Peter/. Peter Blasko is only the top of the iceberg. He is an illustrative example of the behavior of the director against doctors. We want to inform everyone about the situation at place, because there is a silence in media. We want to encourage each other in the resistance to the totalitarian practices of power, which are applicable here but which are unacceptable for us.

Director violates / by our legal analysis / through its steps this:

1. Work rules. The command of the Director, which is valid from 01.11.2012, ordered at the departments uneven distribution of working time, it is essential that he should had agreement with trade unions, but director has not have such agreement. Trade unions rejected it in written form. They have this right under the Labour Code, but he did not respect it. Even so uneven distribution of work does not work due to lack of doctors.

2. Remuneration order.

3. Organization Order.

Notices to physicians are inappropriate pressure on them in order to sign modified contracts which are disadvantageous not only in terms of salaries, but also other employment relations. Redundancy is not true.

Efforts to dismissal of Dr. Blaško is an unprecedented step in the democratic world. Just this should be enough to appeal of the Director.

The mail communication in a hospital information system is locked. Verbal threats to other trade union leaders in hospital. Intimidation and threats of closure of other departments.

So much for rendering of the situation under informations which I have got from our colleagues in Hospital Žilina.

I will be there on this Monday, also Martin Engel, and our colleagues from Hungary and Poland.

With regards

Pavel Oravec
LOZ Slovakia

Zuzana Zvolenská
Minister of Health of Slovak Republic
Ministerstvo zdravotníctva SR
Limbová 2
P.O. BOX 52
837 52 Bratislava 37

PW.II-354/12

Dear Minister Zvolenská,

This letter by the Board of Doctors' Trade Union of Poland (OZZL) is to express solidarity with the doctors' trade union of Slovakia (LOZ) as well as with doctor Peter Blasko, a member of the board of LOZ, whose employment at the hospital in Žilina has been recently terminated. The circumstances of this termination demonstrate that it was nothing more but an illegal attempt to remove a union doctor in order to send a warning message to his colleagues who exercise their statutory labor rights to protest. Such actions constitute a flagrant violation of the fundamental labor and civil rights and are unknown to any other democratic state. Only under totalitarianism citizens and workers are regarded as a property of the state which can force them to perform its own will.

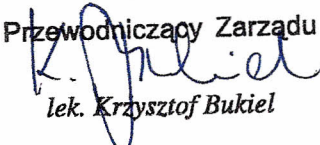
OZZL calls upon the Slovakian government to put an end to the violation of civil and labor rights and engage in a dialog. OZZL declares also that it will help the doctors' trade union in Slovakia in every possible way.

This letter will be sent to the doctors' trade union in Slovakia.

Sincerely,

The Board of the OZZL

Krzysztof Bukiel – chairman of the board

Przewodniczący Zarządu

lek. Krzysztof Bukiel