



European Junior Doctors
Permanent Working Group



The implementation of the European Working Time Directive - EJD Survey

Hrvoje Vražić
EJD Vice-President

Vienna, Austria, 08. 05. 2015.

- EU's Working Time Directive (2003/88/EC) is a HOT topic!
- France
- Ireland
- Croatia
- Other countries

- EWTD currently under review by the EC
- Consultations finished in 03/2015
- AEMH-FEMS-EJD VIENNA STATEMENT



COMMISSION EUROPÉENNE
SECRETARIAT GÉNÉRAL

Bruxelles, le
SG-Greffe(2013)D/

REPRESENTATION PERMANENTE
DE LA FRANCE AUPRES DE
L'UNION EUROPEENNE
Place de Louvain, 14
1000 BRUXELLES

Objet: Mise en demeure – Infraction n° 2009/2044

Le Secrétariat général vous prie de bien vouloir transmettre au Ministre des Affaires étrangères la lettre ci-jointe.

Pour la Secrétaire générale,

Valérie DREZET-HUMEZ

p.j. : C(2013) 3559 final

FR

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COMMISSION EUROPÉENNE

Bruxelles, le 20.6.2013

2009/2044
C(2013) 3559 final

Monsieur le Ministre,

J'ai l'honneur d'attirer votre attention sur la transposition en France de la directive 2003/88/CE¹ en ce qui concerne le temps de travail des médecins en formation.

Après analyse des informations fournies par les autorités françaises en réponse à une demande d'information dans le système EU-Pilot et sur base de toutes les informations dont les services de la Commission disposent à présent, il apparaît que la France n'a pas correctement transposé la directive dans ce domaine.

Le droit européen

La directive 2003/88/CE a pour objectif d'améliorer la protection de la santé et de la sécurité des travailleurs, notamment en fixant (dans son article 6) une limite au temps de travail de 48 heures hebdomadaires en moyenne, et (dans ses articles 3 et 5) des périodes de repos minimaux journaliers et hebdomadaires.

L'article 6 de la directive dispose que:

'Les États membres prennent les mesures nécessaires pour que, en fonction des impératifs de protection de la sécurité et de la santé des travailleurs:

- a) la durée hebdomadaire du travail soit limitée au moyen de dispositions législatives, réglementaires ou administratives ou de conventions collectives ou d'accords conclus entre partenaires sociaux;*
- b) la durée moyenne de travail pour chaque période de sept jours n'excède pas quarante-huit heures, y compris les heures supplémentaires.'*

En ce qui concerne le repos journalier, l'article 3 de la directive dispose que:

¹ Directive 2003/88/CE du Parlement européen et du Conseil du 4 novembre 2003 concernant certains aspects de l'aménagement du temps de travail (JO L 299 du 18.11.2003, p. 9).

Son Excellence Monsieur Laurent FABIUS
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EUROPEAN COMMISSION – PRESS RELEASE

Working time: Commission requests Ireland and Greece to comply with the EU rules on limits to working time in public health services

Brussels, 29 September 2011 – The European Commission has requested Ireland and Greece to ensure full compliance with the EU rules on limits to working time for doctors in public health services. The request takes the form of a 'reasoned opinion' under EU infringement procedures. Ireland and Greece now have two months to inform the Commission of measures they have taken to bring their legislation into line with EU law. Otherwise, the Commission may decide to refer Ireland and Greece to the EU's Court of Justice.

In Ireland's case, national law provides for limits to doctors' working time, but in practice public hospitals often do not apply the rules to doctors in training or other non-consultant hospital doctors. There are still numerous cases where junior doctors are regularly obliged to work continuous 36-hour shifts, to work over 100 hours in a single week and 70-75 hours per week on average, and to continue working without adequate breaks for rest or sleep.

For Greece, doctors working in public hospitals and health centres often have to work a *minimum* average of 64 hours per week and over 90 hours in some cases, with no legal maximum limit. There is no legal ceiling to how many continuous hours they can be required to work at the workplace, and they often have to work without adequate intervals for rest or sleep.

The Commission considers this situation a serious infringement of the EU's Working Time Directive. Excessive working hours, combined with lack of minimum rest, create well-established risks for workers' health and safety. Over-tired doctors also risk making mistakes which can have serious consequences for their patients.

Effects of the Restriction of Working Time for Residents: A Dutch Perspective

ONNO T. TERPSTRA, MD, PhD, FRCS

JANTINE H. STEGEMAN, PhD

A main objective of restricting working time for residents, whether it is the Accreditation Council for Graduate Medical Education (ACGME) regulation or the European Working Time Directive (EWTd), is to protect patients from exhausted doctors. However, in the Netherlands, legislation enacted in 1993 to reduce working hours for junior doctors, as residents are termed, and midwives was prompted by trainees in a teaching hospital who complained to members of parliament about long working hours and miserable personal lives. At the time, public working hours were mandated to no more than 38 h/wk. An arbitrary 10 hours was added for education and training; thus, trainees were allowed to work 48 hours a week.

In the first years, the Dutch Department of Labor took a more or less lenient position but, in 1997, started to enforce the law. Site visits to hospitals are made routinely, resident schedules are inspected, and hospitals are fined if they do not comply with the rules. Initially the surgical community fiercely opposed the new regulation and argued that a work week of 48 hours would not suffice to adequately train young surgeons. However, their plea for a 60-hour work week was politically unacceptable to the Dutch government, which had already accepted the limits of the European Working Time Directive. In 1995, the yearly survey of the Dutch Association of Surgical Trainees reported a work week of 57 hours. This number decreased to 55 hours in 2005 and has remained unchanged since.¹

working week of 55 hours for UK pilots and a 30-hour work week for US pilots.³ It would seem that reducing work hours might, therefore, improve patient outcome as well. Moonesinghe and colleagues⁴ recently reviewed studies of the effects of reducing working hours (less than 80 hours per week in the US; less than 56 or 48 hours per week in the UK and mainland Europe) on the quality of patient care: 4 systematic review articles reported a beneficial effect on patient safety and clinical outcome, 2 articles found an increase in complications, and 28 articles showed no difference in outcomes in patients. Most studies were done in the US, with a paucity of high-quality studies from the UK and European Union countries. The authors concluded that the evidence at that time was inconclusive about whether reduced working hours improved patient outcomes.

There may be unintended, negative consequences to reducing work hours. More handovers are inevitable because rotations must fit within the maximum 13 hours at a stretch allowed by Dutch and European law. In spite of some methodologic flaws, a study among 6 German intensive care units (ICUs) is of interest here. Bollschweiler and coauthors⁵ compared 2 hospitals with a 12-hour ICU shift system (2 shifts) with 4 hospitals using an 8-hour ICU shift system (3 shifts). Patient characteristics, including health status on admission, were comparable, but patients in the ICUs using 2 shifts of 12 hours made significantly

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Success for ISNIH - Commission Infringements Package: Formal Request Sent to France

17. October 2013



On 26 September 2013, the European Commission published its September infringements package. Amongst others, the EU Commission has opened a procedure against France because hospital doctors' right to a 48-hour average weekly working time and to minimum rest periods after working extra hours at night according to the to the Working Time Directive (2003/88/EC) is currently not guaranteed in France. If certain conditions are respected, a worker can be asked

to work extra hours (exceeding the 48-hour limit). This "opt-out" is allowed for French hospital doctors but does not comply with the Directive's conditions (unclear rules for measuring working time, requirement to work excess hours without the doctor's consent, minimum daily rest period). The publication regarding this matter were done by the EJD French national member ISNIH and forced the Commission to act. France now has two months to notify the European Commission of the measures taken to comply with EU law. The infringement package of September 2013 can be found [here](#).

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NCHD Day of Action on October, the 8th

07. October 2013



3,000 IMO NCHDs to begin strike action in campaign against dangerously long working hours

51 Hospitals will be affected by withdrawal of service for the day

Monday 7th October 2013. Over 3,000 IMO NCHDs will withdraw services from 51 hospitals across the country tomorrow (Tuesday) in an unprecedented Day of Action against the HSE. The day of action is a dramatic

escalation of a long running dispute which the IMO has waged with the HSE over the "dangerously long working hours" which NCHDs [Non Consultant Hospital Doctors] are currently forced to work.

Under current arrangements NCHDs (also known as Junior Doctors) are routinely required to work single shifts longer than 24 hours - and routinely up to 36 hours - at a time and up to 100 or more hours a week. Many NCHDs complain of exhaustion and stress and there have been numerous concerns expressed about the risk to patient safety from being seen by exhausted doctors.

Speaking today the Chairman of the IMO NCHD Committee, Dr. John Donnellan, said that health and safety concerns for both patients and for NCHDs were at the root of this dispute; "Our members are worried for the risks they pose to their patients and to themselves by current working conditions. Current working arrangements are in breach of European directives and even the Minister for Health has criticised them. The challenge now is to bring them to an end as quickly as possible."

Eric Young, Assistant Director of Industrial Relations at the IMO warned that further days of action may follow if the HSE did not engage seriously with the process to end this abuse; "the HSE has ignored this matter for too long and it has relied on the goodwill and professionalism of our members to continue working illegal working hours. They can no longer take our members for granted. They must demonstrate a commitment to engaging with our members in a serious and credible way or there will be further disruptions ahead."



REPRESENTATION IN IRELAND

European Commission > Ireland > Press office > Other News

EU working time rules in public health services-Ireland referred to European Court by Commission

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The European Commission has decided to refer Ireland to the EU's Court of Justice for not complying with the EU rules on limits to working time for doctors in public health services. In particular, Ireland fails to ensure that in practice these doctors work no more than 48 hours per week on average, including any overtime.



Irish national law respects the requirements of the EU's Working Time Directive by providing for limits to doctors' working time. However, in practice public hospitals often do not apply the rules to doctors in training or other non-consultant hospital doctors. There are still numerous cases where junior doctors are regularly required to work continuous 36-hour shifts, to work over 100 hours in a single week and 70-75 hours per week on average, and to continue working without adequate breaks for rest or sleep.

The Commission considers this situation a serious infringement of the EU's Working Time Directive, endangering not only doctors' health and safety but also their patients as over-tired doctors risk making mistakes. The Commission became aware of the infringement following national reports highlighting the lack of compliance, and after receiving a complaint from an Irish doctors' organisation. The Commission already requested Ireland on several occasions to take the necessary measures to ensure that the practice of public authorities complies with the Directive (see [IP/11/1121](#)). While the Irish authorities have replied to those requests, the concrete progress made in practice is simply insufficient, given the excessive number of hours doctors are still required to work in Ireland.

Background

Under the Working Time Directive, workers are entitled on health and safety grounds to a maximum limit to their working time. This may not exceed 48 hours per week on average, including any overtime. Workers are also entitled to a minimum of 11 hours' uninterrupted rest per day, and a minimum additional uninterrupted weekly rest of 24 hours. There is some flexibility to postpone minimum rests for justified reasons, but only provided the worker can still take all the missed rest hours soon afterwards.



Maire Geoghegan-Quinn
Research, Innovation and Science



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Croatia



Responses (2014)

1. Austria
2. Croatia
3. Czech republic
4. Estonia
5. Finland
6. France
7. Germany
8. Hungary
9. Ireland
10. Italy
11. Latvia
12. Lithuania
13. Malta
14. Netherlands
15. Norway
16. Portugal
17. Slovenia
18. Spain

- Q2 - Is the European Working Time Directive (EWTD - Directive 2003/88/EC), fully implemented in your country?
- **Yes (9)**: Austria, Croatia, Czech republic, Estonia, Germany, Latvia, Lithuania, Netherlands, Slovenia
- **No (7)**: Finland, France, Ireland, Italy, Norway, Portugal, Spain
- **Other (2)**:
 - Hungary (Health Act in Hungary permits to work 24 in row twice in a month)
 - Malta (It is optional - doctors are given the option to choose when they start working)

- Q3 - What is the working time limit by law (for junior doctors, in hours per week)?
- **shortest**: 35h + oncalls (Spain), 38h (Italy), 38,25h daytime - nightshifts excluded (Finland)
- **40h-48h**: 11 countries (Austria, Croatia, Czech Republic, Estonia, Germany, Hungary, Ireland, Latvia, Lithuania, Netherlands, Portugal)
- **longest**: 56h (Slovenia), 60h (Norway), no limit (France; Malta - in previous survey 75h-100h)

- Q4 - How is it defined (especially in terms of recording/recognition/payment for overtime hours, on calls - either in hospital or at home)?
- no common situation
- extremely diverse situations, between countries, and within countries, also sometimes at hospital level
- in some countries defined per collective agreements

- Q5 - Do employers systematically record all working hours of junior doctors?
- **Yes (8)**: Austria, Germany (47%), Hungary, Italy, Latvia, Lithuania, Netherlands, Slovenia
- **No (9)**: Croatia, Czech republic, Estonia, Finland, France, Germany (53%), Ireland, Norway, Spain
- **Pro-forma:**
 - Malta (Junior doctors have to hand sign in and out on a signature book)
 - Portugal (Depends of the health care facility - some have electronical records of "getting in the hospital" and "getting out" but it's not recorded as working hours)

- Q6 - Are overtime hours mainly compensated with payment or with free time - free days?
- **Yes (payment and/or free time, 10):** Austria, Croatia, Czech Republic, Germany (35% payment, 44% free time, 21% no compensation), Hungary, Ireland (payment), Malta (payment), Netherlands, Portugal, Slovenia
- **No (5):** Italy, Latvia, Lithuania, Norway, Spain
- **In some places:** Estonia, Finland

- Q7 - Is OPT-Out possible?
- **Yes (6)**: Croatia, Czech republic, Germany, Lithuania, Malta, Slovenia
- **No (10)**: Austria, Finland, France, Ireland, Italy, Latvia, Netherlands, Norway, Portugal, Spain
- Other
 - Estonia: this term doesn't exist in Estonia, so I don't really know what you mean by this
 - Hungary: because EWTD is not fully implemented in Hungary official opt out does not exist...but how we mentioned above every doctor can work as much he/she wants

- Q8 - If OPT-out is possible, what is the Working time limit including OPT-Out (in hours/week)? (Croatia, Czech Republic, Germany, Lithuania, Malta, Slovenia)
- various limits - ranging from 48h/week (Czech Republic) up to 72h/week (Lithuania), to no limit (Malta)

- Q9 - If OPT-out is possible, and not signed/chosen by a junior doctor, are there any negative consequences for that junior doctor in the way the employer treated him/her compared to those that chose opt-out?
- **Yes (5)**: Croatia, Czech Republic, Hungary, Slovenia, Germany*
**90% of the participants of our survey stated that they prefer a working time of 48 hours or less. Only 10% of the participants of our survey wanted to work more than 48 hours. On the other hand 74% of the participants of our survey stated that they actually work more than 48 hours. With such a huge difference between wish and reality one can assume that there is some form of pressure on doctors.*
- **No (3)**: Latvia, Lithuania, Malta
- **ND (1)**: Estonia

- Q10 - If it was possible to choose, to work in oncalls system or in shifts system, what would junior doctors in general prefer?
- **Oncalls (4)**: Italy, Netherlands, Norway, Slovenia
- **Shifts (4)**: Czech Republic, France, Latvia, Lithuania
- **Mix (3)**: Finland (Juniors prefer shorter shifts in general. Oncalls by themselves are not objected), Germany (66% on-call, 34% shifts), Ireland
- **No data (7)**: Austria, Croatia, Estonia, Hungary, Malta, Portugal, Spain (**It depends on the money paid as salary.** The junior doctor's salary in Spain is sustained by the number of oncalls made by month)

- Q11 - What percentage of junior doctors works in shifts?
- **None (6)**: Austria, Finland, Hungary, Netherlands, Norway, Spain
- **Some (6)**: Croatia, Slovenia (5-10%), Ireland (10%), Malta (10%), Estonia (15%), Germany (20%)
- **Most (5)**: Lithuania (50%), France (60%), Czech Republic and Italy (80%), Latvia (100%)
- **No data (1)**: Portugal

- Q12 - What is the percentage of physicians work part time?
- 2.1% (Ireland), 5-10% (Slovenia), 15% (Germany), 18% (Finland), high and increasing without known number (Spain)
- ND: Estonia, Lithuania, Malta, Portugal

- Q13 - What are total average weekly working hours of junior doctors (inclusive overtime hours, on call - either in hospital or at home)?
- **Shortest:** 20-40 (Hungary), 40 (Lithuania), 43,8 (Estonia), 45 (Norway)
- **Longest:** 54-66 (Germany), 60 (Finland), 65 (France), around 100 hours (Latvia)

- Q14 - In reality, how many physicians work weekly more than (please note that total sum of percentages should be 100%) - largest proportion given:
- >40h: 65% (Czech Republic)
- >55h: 40% (France), 47% (Germany - 49-59h); 50% (Italy), 80% (Hungary)
- >60h: 30% (Lithuania), 38,6% (Ireland)
- >70h: 30% (Latvia)
- ND or no reply: Austria, Croatia, Estonia, Malta, Netherlands, Norway, Portugal, Slovenia, Spain

- Q15 - How much time is spent daily performing administrative tasks (in percentage of daily working hours)?
- 5% Finland, 15% Italy, 10-25% Latvia, 20% Spain, 30% Czech Republic and France, 33% Ireland, 30-40% Netherlands, 30-60% Slovenia, 50% Norway and Croatia, up to 52% Austria, 60% Lithuania, 70% Malta, 80% Estonia
- Highly variable: Hungary, Portugal
- Germany: 25% <1h, 42% 1-2h, 25% 2-3h, 8% >3h

- Q16 - Do junior doctors feel that the management of working time in hospitals affects their health (eg. in the form of insomnia, frequent fatigue)?
- **Yes (15)**: Austria, Croatia, Czech republic, Finland, France, Germany (71%), Hungary, Ireland, Italy, Latvia, Malta, Norway, Portugal, Slovenia, Spain
- **No (3)**: Estonia, Lithuania, Netherlands (mainly)

- Q17 - If yes, is there a general consensus/feeling that their performance is affected?
- **Yes (13)**: Austria, Croatia, Czech Republic, Finland, France, Germany (89%), Hungary, Ireland, Latvia, Malta, Norway, Portugal, Spain
- **No (3)**: Italy, Netherlands, Slovenia

Thank you!



European Junior Doctors
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Questions?