



EUROPEAN COMMISSION
Employment, Social Affairs and Equal Opportunities DG
The Director-General

Réf. DG EMPL - CAD

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Brussels,
MR/mk D(2009) 4563

For the attention of the Social
Partners' organisations

Subject: Consultation on notifications by Member States under Article 17(5) of Directive 2003/88/EC (working time of doctors in training)

Dear Madam, dear Sir,

I wish to refer to Article 17(5) of Directive 2003/88/EC on the organisation of working time, which permits transitional arrangements regarding the application of the working time rules in the Directive to doctors in training.

Under Article 17(5), Member States may derogate from Articles 6 and 16 of the Directive (which deal respectively with the limit to average weekly working time and the reference period for calculating that average) in the case of doctors in training during a transitional period of five years, from 1 August 2004 to 31 July 2009. Such derogations are subject to the conditions set out at Article 17(2) and Article 17(5); and, in particular, to the condition that the weekly working time of doctors in training will not, in any case, exceed 52 hours per week, averaged over not more than six months, during the last two years of the transitional period.

Normally, the working time rules in the Directive apply in full to doctors in training with effect from 1 August 2009: that is to say, weekly working time of doctors in training should not exceed 48 hours per week, on average, from that date.

However, the third to fifth subparagraphs of Article 17(5) state that:

' Member States may have up to two more years, if necessary, to take account of difficulties in meeting the working time provisions with respect to their responsibilities for the organisation and delivery of health services and medical care. At least six months before the end of the transitional period, the Member State concerned shall inform the Commission giving its reasons, so that the Commission can give an opinion, after appropriate consultations, within the three months following receipt of such information. If the Member State does not follow the opinion of the Commission, it will justify its decision. The notification and justification of the Member State and the opinion of the Commission shall be published in the Official Journal of the European Union and forwarded to the European Parliament.

....
Member States shall ensure that in no case will the number of weekly working hours exceed an average of 52 for any [such extended] period.'

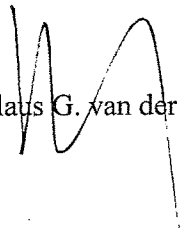
Three Member States (Hungary, the Netherlands and the United Kingdom) have informed the Commission that they wish to avail of these provisions. I attach copies of the notifications received, which set out the reasons given by the Member States concerned.

Before giving its opinion on these notifications, as required by Article 17(5), the Commission would like to consult the European social partners and the representatives of the Member States¹.

Given the time frame for the Commission's opinion, I would be obliged if you could ensure that any comments you wish to make reach the Commission at latest within four calendar weeks of this letter. I regret that, due to the overall translation constraints which the Commission faces at present, it is only possible to forward the notifications in the language received, and in English.

The contact persons are Madeleine Reid (madeleine.reid@ec.europa.eu) and Bianca Busuioc (bianca.busuioc@ec.europa.eu).

Yours sincerely,


Nikolaus G. van der Pas

¹ See the Commission's statement regarding Art. 1(6) of Directive 2000/34/EC, at OJ L 195 p. 41-5, 1.8.2000 (Art. 17(5) of Directive 2003/88/EC codifies and repeals Art. 1(6) of Directive 2000/34 EC.)