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Legislation: Working Times and Late Payments

The European Commission is reopening the controversial debate on the future of working time across Europe and has begun to canvas the views of employers and employees on the changes that should be made to the present arrangements. The initiative will have direct implications for hospital managers as attention focuses on the maximum working week, the definition of daily and weekly rest periods, the opt out and, most difficult of all, the treatment of on-call time.

László Andor, the new EU employment and social affairs Commissioner, is determined to try to break the deadlock which has existed since national governments and the European Parliament failed to agree in April 2009 on ways to update legislation which first took effect some 16 years earlier. That failure, he points out, makes it impossible to ensure that employees' health and safety are being effectively protected across Europe. It denies employers, businesses and employees the necessary flexibility to organise their work schedules and raises the possibility of legal action against governments whose arrangements are incompatible with European law.

He is now challenging trade unions and employer organisations to come forward with imaginative ideas to bridge the many differences which continue to stall progress. "We need a comprehensive review of the rules based on a thorough impact assessment with a strong social dimension. We invite the social partners to reflect broadly on this crucial issue and to come forward with innovative proposals that move beyond unsuccessful debates of the past," he said. If the current exercise does indeed produce some constructive thinking, the Commission, which is preparing an impact assessment on the existing legislation, could table a new legislative proposal.

The Commission is hoping that the way in which work patterns have changed significantly over the past two decades may encourage both employer and employee organisations to be more flexible. It points to the fall in average weekly working hours in the EU from 39 hours in 1990 to 37.8 hours in 2006; the growth in part-time workers from 14 percent in 1992 to 18.8 percent in 2009; and to wider use of flexitime and time credit systems.

The Commission's report launching the new working time consultation acknowledges the specific situation of the health sector, without offering any possible ways to reconcile competing demands. It recognises that the need to provide round the clock services "creates the delicate problem of how to calculate working hours and rest periods in cases of 'on-call time'. It contrasts the views of those who maintain that long hours spent on call at the workplace can have a detrimental effect on staff health and so should therefore be counted as working time against the argument that to do so "can have very damaging consequences for the functioning and financing of services that need special flexibility in order to function on a 24-hour basis".

While changes to EU working time legislation are certainly unlikely in the short-term, new European rules clamping down on late payments could be agreed within a few months. The European Parliament is due to vote before the summer on measures to tighten up existing arrangements and the medical technology industry is following developments with interest.

Eucomed, which represents 11,000 designers, manufacturers and suppliers of medical technology, has recently complained that its members are suffering because of delays by hospitals in paying for the equipment they purchase. It found that last year invoices unpaid for over 30 days by public hospitals amounted to over seven billion euro – the equivalent of 10 percent of the sector's turnover.

John Wilkinson, Eucomed's chief executive, has warned of the consequences of such delays, "The situation has become so severe that some companies are facing bankruptcy. Unfortunately, patients will also suffer when companies withdraw from the market and the range of products and treatments available become restricted. This will add to health inequalities across Europe."

The worst culprits are Spain and Italy where the average payment time by hospitals is 200 days, although in some of their regions it can be three times as long. In almost half of all 27 EU Member States the average payment period is well over 100 days. At the other end of the scale, the UK has committed central government departments and National Health Service agencies to pay within ten days. In Ireland, government departments settle invoices within 15 days and state bodies within 30.

Eucomed fully supports the current legislative proposal that tougher penalties be applied to late payers. These include interest on the sums

owed and responsibility for meeting the recovery costs involved. The medical technology sector is also fighting any moves to exempt public hospitals from the scope of the European legislation.

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