



Press and Information

Court of Justice of the European Union

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Judgment in Case C-87/14  
Commission v Ireland

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## **The Commission has not succeeded in establishing that Ireland has failed to fulfil its obligations under the Working Time Directive for Non-Consultant Hospital Doctors**

The Working Time Directive<sup>1</sup> provides that all workers must benefit from minimum daily and weekly rest periods. In addition, the average working time for each 7 day period, including overtime, must not exceed 48 hours. Lastly, the Member States may lay down reference periods for the application of those rules provided that those periods do not exceed 6 months or, in the case of objective or technical reasons or reasons relating to the organisation of work, 12 months.

In Ireland, the Irish Medical Organisation (IMO), which represents all doctors practising in Ireland, and the Health Service Executive (HSE), the public body which represents the health authorities, concluded a Collective Agreement and a Standard Contract of Employment for Non-Consultant Hospital Doctors ('NCHD').

The Commission considers that certain provisions of the Collective Agreement and the Standard Contract of Employment are contrary to the rules in the directive, in particular those concerning minimum rest periods and limits to weekly working time. Not satisfied with the Ireland's explanations, the Commission decided to bring an action for failure to fulfil obligations before the Court of Justice.

In today's judgment, **the Court dismisses the Commission's action for lack of evidence.**

In reply to the Commission's argument that certain training hours of NCHD are wrongly not considered 'working time' (that training being provided by organisations independent of the employer, either on the employer's premises or in other places, varying between 2h30 and 17h per month), the Court observes that **the Commission has not established that during that training NCHD are available to provide medical care to patients and are required to be physically present at a place determined by the employer and to be there at the disposal of the latter so as to be able to provide appropriate services as the need arises.** In addition, the Court finds that the Standard Contract of Employment does not prescribe a training requirement for NCHD and does not introduce or impose specific employment obligations in relation to training.

Further, the Commission maintains that the reference period for NCHD whose employment contracts exceed 12 months is extended in accordance with the Collective Agreement, from 6 to 12 months, which, in its view, is contrary to the provisions of the directive. In that regard, the Court finds that the Commission has not succeeded in explaining why the conditions for such an extension are not satisfied, when Ireland puts forward the existence of **an objective reason or a reason concerning the organisation of work**, within the meaning of the directive (that is that NCHD must be rostered sufficiently and flexibly).

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<sup>1</sup> Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ 2003 L 299, p.9)

Lastly, the Court considers the Commission's argument that the Standard Contract of Employment neither shows that NCHD have a right to the minimum daily and weekly rest periods laid down in the directive, or to equivalent compensatory rest, nor explicitly limits the total length of the working week. The Court observes **that by referring to certain provisions of the Standard Contract of Employment in isolation - the exact scope of which is, moreover, subject to discussion between the parties, the Commission has not succeeded in establishing the existence of a practice contrary to the directive.** Further, the Court observes that it is not disputed that the relevant provisions resulting from the legislation transposing the directive are clear and applicable in any event.

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**NOTE:** An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under European Union law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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