



**ASSOCIATION EUROPÉENNE DES MÉDECINS DES HÔPITAUX
EUROPEAN ASSOCIATION OF SENIOR HOSPITAL PHYSICIANS
EUROPÄISCHE VEREINIGUNG DER LEITENDEN KRANKENHAUSÄRZTE
EUROPESE VERENIGING VAN STAFARTSEN
DEN EUROPÆISKE OVERLÆGEFORENING
ΕΥΡΩΠΑΪΚΟΣ ΣΥΛΛΟΓΟΣ ΝΟΣΟΚΟΜΕΙΑΚΩΝ ΙΔΤΡΩΝ ΔΙΕΥΘΥΝΤΩΝ
ASSOCIAZIONE EUROPEA DEI MEDICI OSPEDALIERI
DEN EUROPEISKE OVERLEGEFORENING
ASSOCIAÇÃO EUROPEIA DOS MÉDICOS DE HOSPITALARES
ASOCIACIÓN EUROPEA DE MÉDICOS DE HOSPITALES
EUROPEISKA ÖVERLÄKARFÖRENINGEN
EVROPSKO ZDRŽENJE BOLNIŠNIČNIH ZDRAVINIKOV
EUROPSKA ASOCIACIA NEMOCNICNÝCH LEKAROV
EUROPSKA UDRUGA BOLNIČKIH LIJEČNIKA**

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REPORT OF THE GERMAN AEMH-DELEGATION

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The German delegation is restricting its report this year to three points of major importance which have been at the centre of discussions amongst senior hospital physicians within the health system in Germany during the period in question.

1 Effects of the Law Governing the Modernisation of the State Health Insurance Scheme

The *Law Governing the Modernisation of the State Health Insurance Scheme* came into force in Germany on 01.01.04. In the words of the legislators, its aim is to guarantee in the future that all those insured, irrespective of age, sex and income, will receive the necessary medical attention they require, while at the same time ensuring both high quality care and acceptable insurance contributions over a long period.

These aims are in part to be achieved through structural alterations to the system, such as making hospitals accessible to out-patients care, and in part by releasing the state health insurance scheme from its obligation to pay for services alien to it. In addition, the terms of the legislation also place a heavy financial burden on those insured under the scheme, in the form of high additional charges and increased contributions, given at the same time a decline in the level of services, the volume and extent of which is unprecedented in this country. The payment of a surgery fee of €10.00, which every person insured has to remit on their first contact with a doctor each quarter, is one glaring example.

The German Association of Hospital Physicians (VLK) is of the view that the goals this legislation hopes to achieve will not be attained through the implementation of such measures, since the resolutions contained in the legislation lead neither to a fundamental reform of the present social system, nor do they guarantee a financial base for the state health insurance scheme over a long period. The Association therefore welcomes the avenues opened up by the legislation, yet it regrets the lack of consistency it displays.

The incorporation of hospital services into the field of out-patient care, one of the measures foreseen by this legislation, is a particular example in case, since the possibilities hospitals have to contribute to out-patient care, regulated by a defined catalogue of highly-specialised treatment areas, are seen as far too limited. This further means that the resources available in hospitals can scarcely be used more effectively than they are at present, the reason why the Association is pleading for a complete abolition of the strict borders which exist between out-patient and in-patient specialist care. This must become the goal of the legislators, and only when this goal is achieved will real system changes, as well as improvements in quality and efficiency, become visible.

2 Amendment to the Regulations Governing Qualifications

In 2003 the German Medical Congress passed an *Amendment to the Regulations Governing Qualifications*. This amendment contained the provision that the 'ordinary' internist will cease to exist. The internist of the future will either be an internist and

general practitioner, or a specialist with a description denoting the area of main emphasis. It follows that his provision will have considerable consequences within hospital structures. A hospital department for internal medicine will in future be obliged to undergo restructuring if it wishes to maintain the whole spectrum of medical care it offers at present, i.e. it will now have to offer the totality of specialist areas within internal medicine, or reduce the scope of care it offers.

The *Amendment to the Regulations Governing Qualifications* also presents problems with regard to European legislation governing physicians. This legislation is centered around the basic premise that medical degrees and further qualification diplomas, obtained in accordance with jurisdiction on a national level, must be subject to mutual recognition in all states of the European Union. In this way, those in possession of such certificates and diplomas have rights and opportunities equal to those held by physicians natives to the countries to which others may one day wish to move.

Further qualification diplomas fall into two categories, those the descriptions of which have been introduced into all member countries of the European Union, and those the descriptions of which have been introduced into at least two, but not all, of the member countries. Lists of both groups are to found in the current draft of the Guide Lines 2001/19/EG, Appendix C, dated 14.05.01.

The problem resulting from the *Amendment to the Regulations Governing Qualifications*, seen in terms of the European system against which Germany alone cannot infringe, is therefore evident. Since the field of internal medicine as an independent qualification is to be abolished and the different emphases of internal medicine are to become single subject areas in their own right, the ability to work in other European states will be affected. The result is that the professional chances for German physicians to migrate within Europe geared to the future are considerably reduced.

Given these difficulties, the Association is engaged in an attempt to prevent the amended regulation from being implemented on the federal state level, particularly in relation to the European legal conflicts it will entail. It remains to be seen to what extent the Association will be successful.

3 Effects of the European Court Verdict of 03.10.01

The European Court decreed on 03.10.01 that within the terms of the relevant European Guide Lines, the time personnel on call spend at the work-place is to be judged as full working time. Furthermore, on 09.10.03 the European Court pronounced its verdict in the case *Federal State Capital Kiel vs a Senior Hospital Physician*. In this verdict, the European Court confirmed its decision of 03.10.01 was applicable also to Germany.

German legislators, barely three weeks after the pronouncement of the verdict, presented the draft of an emended law governing time spent at the work-place. The central resolution of this draft was the restriction in the number of hours worked per day to a strict maximum of 8, and the provision that any deviation from this resolution should be placed in the hands of the unions and management.

Given that salary agreements between unions and management had not been negotiated, the ratification of this on 01.01.04 in this form – which was the legislator's intention – would have necessitated the implementation of the three-shift system in hospitals throughout the country, incurring additional annual costs of approximated € 3 billion.

Quite apart from the fact that his money is not available in the State health Insurance System, the employment market is unable to produce the 27,000 additional physicians required to implement this legislation.

Fortunately the legislation contains the provision that although the amended law could become effective on 01.01.05, a period of grace, terminating on 31.12.05, would be granted in order to enable the renegotiation of salary agreements. In other words, unions and management have a 2-year transition period during which the agreements in force at present will continue to be valid.

However, a further variation has arisen from comments made by Anna Diamantopoulou, the EU Commissioner for Social Affairs, who has given to understand that the Commission – in light of the obvious difficulties all EU member states are facing – may in fact, prior to the European elections in June 2004, draft a bill reforming the relevant EU Guide Lines.

Irrespective of any decision the EU Commission may take, the European Court's decision of October 2001 has resulted in a number of favourable consequences for Germany:

- 1 Hospitals, physicians' organizations, medical insurance companies and politicians are together discussing models which will help implement the verdict of the European Court using the limited financial and medical personnel resources available.
- 2 The legislator is prepared to grant an additional €800 million annually – at the latest in 2009 and continually thereafter – to finance the vacancies which will have to be filled in hospitals.