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EUROPEAN ASSOCIATION OF SENIOR HOSPITAL PHYSICIANS



EUROPEAN WORKING TIME DIRECTIVE



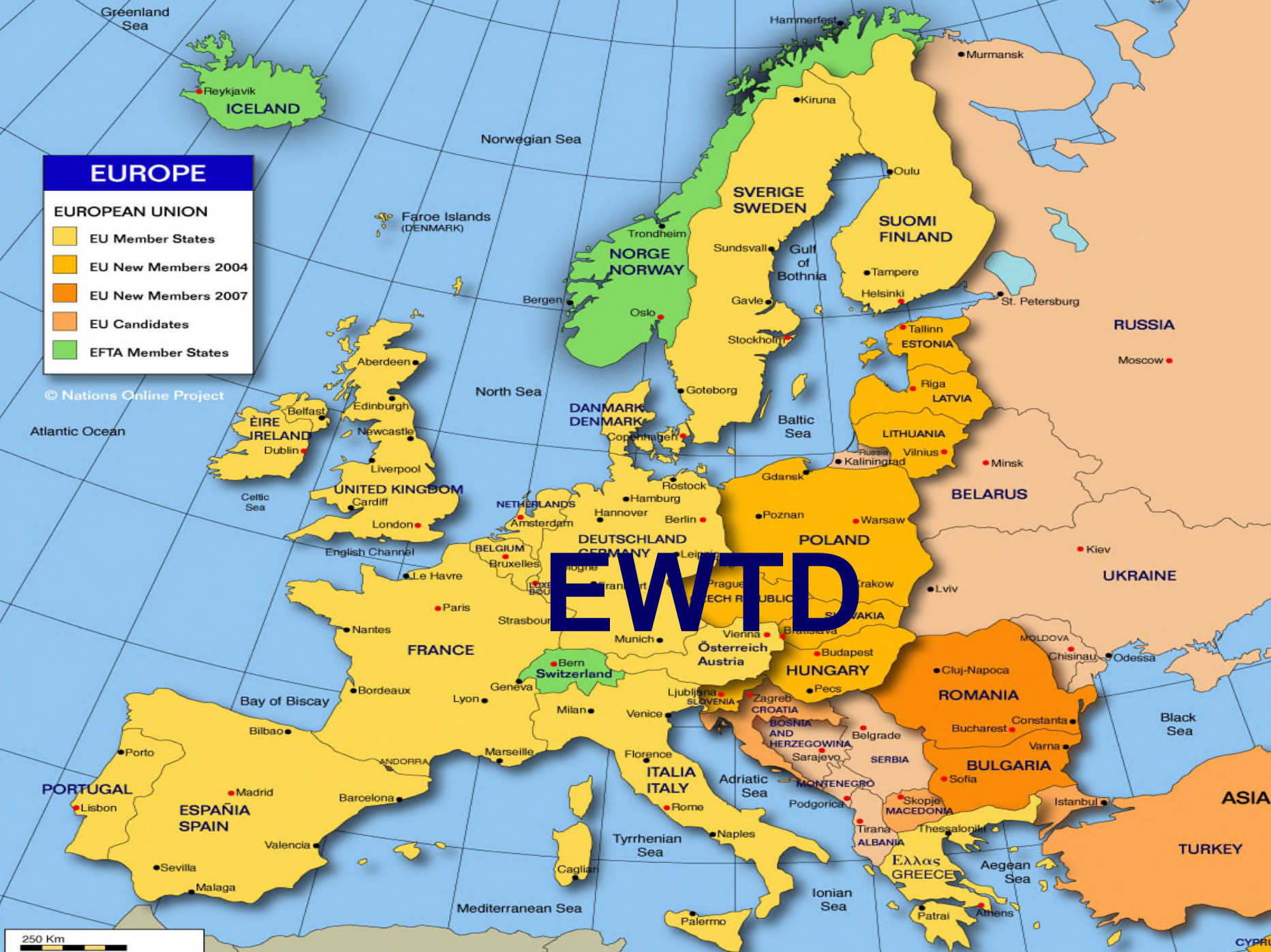
João de Deus
President

EUROPE

EUROPEAN UNION

- EU Member States
- EU New Members 2004
- EU New Members 2007
- EU Candidates
- EFTA Member States

EWTD



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- On-call time corresponds to any period where the worker is required to remain at the workplace (or another place designated by the employer) and has to be ready to provide services. An example could be a doctor staying overnight at the hospital, where he can rest if there is no need to attend patients.

Under the current Working Time Directive, as interpreted by the Court of Justice, on-call time is fully regarded as working time for the purpose of the Directive, regardless of whether active services are provided during that time. The period of on-call time within which the worker actively provides services is usually referred to as 'active on-call time', while the period within which services are not provided can be referred to as 'inactive on-call time'.



- No change to the current rules*
- Incorporate the interpretation of the Court into the Directive (i.e. codification to clarify that all on-call time has to be counted as working time)*
- Set the principle that defining "on-call time" should be agreed in each sector by national social partners, for example determining that only part of inactive on-call time will be counted as working time*



- Stand-by time corresponds to any period where the worker is not required to remain at the workplace, but has to be contactable and ready to provide services. An example could be when a technician of a nuclear facility is at home, but has to be ready to come to the plant to provide services in an emergency.
- Under the current Working Time Directive, as interpreted by the Court of Justice, stand-by time does not have to be considered as working time for the purpose of the Directive. Only active stand-by time, i.e. time in which the worker responds to a call, has to be fully counted as working time.



- No change to the current rules
- Incorporate the interpretation of the Court into the Directive (i.e. codification to clarify that stand-by time does not have to be considered working time)*
- Introducing the obligation to partially count stand-by time as working time for the purpose of the Directive*
- Introducing a limit to the maximum number of hours that a worker may be required to be on stand-by in a given period (for instance 24 hours a week), together with a derogation possibility to set a different limit via collective agreements*



- Under the current Working Time Directive, as interpreted by the Court of Justice, a worker who by derogation from the general rules has not received his/her minimum daily rest of 11 consecutive hours in a 24-hour period, will have to receive an equivalent period of compensatory rest (i.e. 11 hours) directly after finishing the extended working time period. This sets a maximum of 24 hours to a single consecutive shift.



- No change to the current rules
- Incorporate the interpretation of the Court into the Directive (i.e. codification to clarify that compensatory rest has to be granted immediately after the extended period of work)*
- Allowing employers the possibility of granting compensatory rest within 2 days*
- Allowing the possibility of granting compensatory rest within 4 days*



- Under the current Working Time Directive, Member States have the possibility not to apply the limit to average weekly working time of 48 hours, when the worker agrees to it individually and freely with the employer, and does not suffer prejudice for revoking such agreement (the 'opt-out').



- It should be maintained unchanged
- It should be maintained, but stricter conditions for the protection of the worker should be added in the Directive
- It should be maintained, but it should be provided in the Directive that the opt-out cannot be combined with other derogations under the current Directive
- It should be abolished, but in compensation there should be additional derogations made available for employers (e.g. allowing not to count on-call time fully as working time)
- It should be abolished



- Which of the following approaches for the future of the Working Time Directive do you prefer?*

PRIMUM NON NOCERE





- No new initiative (maintaining the current rules)
- No legislative changes but initiatives towards improved legal clarity so that the rights and obligations following from the Directive are clearer and more readable and accessible to all (interpretative communication; 'codification' of the case law (i.e. clearly stating the case law of the Court of Justice in the legal text))
- Legislative changes but focused on the sectors where there is a specific need in terms of continuity of service (e.g. public services; sectors that work on a '24/7' basis like hospital services and emergency services)
- Legislative changes which would lead to an overall revision of the Directive, containing a mix of simplification and additional derogations while avoiding regression of the protection of workers



THANK YOU