

**Action brought on 11 April 2014 — European Commission v Hellenic Republic****(Case C-180/14)**

(2014/C 184/23)

*Language of the case: Greek***Parties***Applicant:* European Commission (represented by: M. Patakia and M. van Beek, acting as Agents)*Defendant:* Hellenic Republic**Form of order sought**

The applicant claims that the Court should:

- Declare that by failing to establish and/or by not having implemented a maximum weekly working time which does not exceed 48 hours and by not having ensured either a minimum daily and weekly rest period or a compensatory rest period which directly follows the working time for which compensation is supposed to be provided, the Hellenic Republic failed to fulfil its obligations under Articles 3, 5 and 6 of Directive 2003/88/EC; <sup>(1)</sup>
- order the Hellenic Republic to pay the costs.

**Pleas in law and main arguments**

1. Directive 2003/88 lays down common minimum standards for the organisation of working time, for the protection of workers' health and safety and in particular an upper limit for the average weekly working time (Article 6) and a minimum daily and weekly rest period (Articles 3, 5 and 6 thereof).
2. Greece transposed the directive into national law, so that its application extended to doctors who are employed in the public health services, by means of Presidential Decree 88/1999. Greece then transposed the directive in so far as it concerned trainee doctors, by means of Presidential Decree 76/2005.
3. Nonetheless, Greece then issued a series of legislative measures which suspended the application of the implementing legislation to salaried doctors and trainee doctors within the public services.
4. Further, from the complaints which were submitted to the Commission by ten different unions of Greek doctors, it is apparent that those workers were obliged under the national legislation, and in practice, to work an average working week of between 60 and 72 hours (salaried doctors) and between 71 and 93 hours (trainee doctors). They were also obliged to work up to 32 hours without interruption at their place of work.
5. Further, there was signed a collective agreement and there were adopted Laws 3754/2009 and 3868/2010 which incorporated provisions of that collective agreement. The national law continues not to define an effective upper limit of time up to which it is possible for the workers concerned to be compelled to work, in that, in addition to regular duties, it is provided that 'the hospital doctors of the National Health Service, the university doctors and trainee doctors shall carry out the on-call duties required to ensure the safe operation of the hospitals and health centres'.
6. Moreover, as those provisions are applied in practice, the minimum daily and weekly rest period is not ensured, in that (i) not all forms of on-call duty are recognised as working time and (ii) there is no provision for equivalent periods of compensatory rest which are provided directly after the additional working time for which that rest is supposed to be compensation.
7. The abovementioned legislation and practice seriously diverge from the minimum requirements imposed by Directive 2003/88 and constitute an infringement of Articles 3, 5 and 6 of the directive.

<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)