

# **Labour law aspects of the work of medical doctors in hospital facilities**

## **Abstract**

This thesis focuses on specific aspects of the work of medical doctors in hospital facilities. Its primary aim is to describe particular labour law provisions, which ensure, that health care by doctors in the context of the continuous 24/7 operation of hospitals is duly provided, as well as to determine, whether the legal requirements of the Labour Code are met in day-to-day practice of such healthcare facilities.

The thesis is divided into four main parts, the first two parts are devoted to the definition of working time and the period of rest, including on-call duty. In particular, emphasis is given to the legal limits of the above, i.e. the maximum length of the fixed weekly working time or the minimum weekly hours of uninterrupted daily rest or uninterrupted weekly rest. In the first part, the legal instrument of the shift as a regularly scheduled part of the working time is also analysed, which is of further importance for the definition of overtime work. Furthermore, the single-shift mode is a specific feature of the medical profession within hospitals and also the most commonly applied working mode for medical doctors. On the other hand, in case of nurses, the majority of working hours are distributed on a continuous operation mode or two or multiple shift modes. The particular reasons, which lead employers to choose different working arrangements for these two healthcare professions are set out in the subsection on working arrangements in hospital practice.

An essential part of the thesis analyses current legal amendments, which are applicable solely for the healthcare sector in the framework of its aforementioned continuous operation mode. As for the most crucial recent change, I personally consider the extension of the maximum shift length in the healthcare sector, which under the current regulation can amount up to 24 hours, to be of utmost importance. The maximum possible continuous performance of work is closely related to the specific regulation of periods of rest, which is in practice often mistaken with the legal concept of provision of compensatory time off. The confusion between these two legal instruments may be considered to be one of the most common mistakes made by employees, as well as employers in the healthcare sector.

The legal instrument of an on-call duty, being applied in the healthcare sector, is described in the second section of the thesis. Its distinctive features are outlined, as well as I define the difference between being in an on-call duty as such, and performing work in the context of an

on-call duty with all its legal consequences. In relation to the performance of the so-called „institutional emergency duty“ (hereinafter referred to as the „IED“), the legal concept of the on-call duty has been particularly important in the past, however, even currently it appears as way to formally record actual overtime work performed by medical doctors in excess of the legal limit.

The main distinction of the work of a doctor in a hospital lies, in my opinion, in the performance of the IEDs, which is why an entire fourth part of the thesis has been devoted to this issue. The primary problem is the absence of a legal definition of the above, which leads to possible differences amongst ways of reporting of IEDs. The most common way is to record the IED as overtime work, which is, however, in many respects highly problematic. Based on the questionnaire surveys, it concerns primarily the actual possibility to plan an IED, as opposed to the formal requirement of exceptionality and randomness of overtime work. An alarming finding is the occurrence of involuntary performance of overtime work, as well as excess of the legal threshold for such overtime hours. Therefore, in extreme cases, employers introduce illegal practices, such as agreements outside the employment relationship for the same type of work or formal reporting of an IED as an on-call duty.

Nevertheless, a conclusion may be reached, that an IED, as a specific instrument regularly used in the practice of healthcare institutions, shall be duly regulated by law. Furthermore, it is crucial to emphasise, that any legal framework, including a 24-hour shift, cannot on itself provide a solution to the problem of an excessive need for overtime in the healthcare sector.

**Key words: working time, healthcare, overtime**