Court of Justice of the European Union
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Press and Information

Judgment in Case C-292/14
Elliniko Dimosio v Stroumpoulis and Others

Greek seamen living in Greece and engaged by a company with its registered office in a non-member country but with its actual seat in Greece are protected under EU law in the event of the company's insolvency

The Greek State erred in failing to provide employees with the protection afforded by EU law

According to the United Nations Convention on the Law of the Sea, signed in Montego Bay in 1982,[1] ships have the nationality of the State whose flag they are entitled to fly. The EU directive on the protection of employees in the event of the insolvency of their employer[2] provides that outstanding wage claims are to be covered when the employer is declared insolvent by a court of a Member State and refers to national law for the definition of the concepts of 'employee' and 'employer'.

In July 1994, Mr Stefanos Stroumpoulis and six other Greek seamen living in Greece were engaged in that country by a company whose registered office was located in Malta to work on board a cruise ship that was owned by that company and flew the Maltese flag. At that time, Malta had not yet acceded to the EU and was, therefore, a non-member country. The seamen were to act as crew members of the vessel, which was to be chartered during the summer of 1994. The employment contracts provided that they were to be governed by Maltese law. The charter of the vessel was ultimately cancelled and the seamen were not paid, with the result that they terminated their contracts in December 1994. After being subject to a number of attachment orders, the vessel was detained in the port of Piraeus before being sold at auction. The Monomeles Protodikio Peireos (Court of First Instance (single judge), Piraeus) granted the seamen's claims and ordered their employer to pay the remuneration due. However, it was not possible to honour their claims in the context of their employer's insolvency (the latter having in the meantime been declared insolvent by the Polimeles Protodikio Peireos) due to lack of realisable assets.

The seamen then applied to the Greek Employment Agency (Organismos Apascholisis Ergatikou Dynamikou) for the protection available under Directive 80/987 to employees in the event of their employer's insolvency. They were refused that protection on the ground that they fell outside the scope of the directive. They therefore brought proceedings before the Diikitiko Protodikio Athinon (Administrative Court of First Instance, Athens) and then before the Diikitiko Efetio Athinon (Administrative Appeal Court, Athens) with a view to establishing the liability of the Greek State as a result of its alleged failure to provide the protection afforded by the directive. The latter court found that the actual head office of the company was located in Greece, that the vessel had been flying a flag of convenience and that, as a consequence, the directive was applicable. According to the administrative appeal court, the Greek State had erred by failing to provide the crew members of sea-going vessels with the protection afforded by the directive and that court therefore ordered the Greek State to pay to the seamen the equivalent of their outstanding wage claims. The Greek Government lodged an appeal before the Simvoulio tis Epikratias (Greek Council of State).

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[1] Convention which was signed in Montego Bay on 10 December 1982 and entered into force on 16 November 1994.
[2] Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer (OJ 1980 L 283, p. 23) repealed and replaced by Directive 2008/94/EC. The Directive was transposed into Greek law by Law 1836/1989.

The Greek Council of State has asked the Court whether Directive 80/987 is to be interpreted as meaning that seamen living in a Member State who have been engaged in that State by a company that has its registered office in a non-member country to work on board a vessel flying the flag of that country are eligible for the protection provided by the directive as regards their outstanding wage claims against the company.

In today's judgment, the Court considers that seamen such as Mr Stroumpoulis and the six other seamen concerned **do not fall outside the scope of Directive 80/987 and that the guarantee covering their wage claims established by the directive must be provided irrespective of the maritime waters on which the vessel on which they worked ultimately sailed.**

In the case of seamen living in a Member State who were engaged in that State by a company with its actual head office in that Member State, Directive 80/987 is applicable and affords such seamen protection where the company in question has been declared insolvent by a court of that Member State in accordance with the law of that State, notwithstanding the fact that the company's registered office is located in a non-member country and the seamen are required to work under a contract governed by the law of that country on board a cruise ship owned by that company and flying the flag of that non-member country.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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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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