



Press and Information

Court of Justice of the European Union  
**PRESS RELEASE No 201/21**  
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Judgment in Case C-214/20  
Dublin City Council

## **The Court defines the scope of the concept of ‘working time’ for a period of stand-by time according to a stand-by system**

MG, a retained firefighter employed on a part-time basis by Dublin City Council (Ireland), is, by virtue of a system of stand-by time according to a stand-by system, retained by the brigade of the fire station by which he was trained. He is required to participate in 75% of that brigade’s interventions and has the option of refraining from the remaining interventions. Without being obliged, during his periods of stand-by time, to be present at a specific place, MG must, when he receives an emergency call to participate in an intervention, arrive at the fire station within a maximum period of 10 minutes. The period of stand-by time according to a stand-by system is, in principle, 7 days per week and 24 hours per day and is interrupted only by leave periods and periods of unavailability notified in advance.

MG is however permitted to carry out a professional activity, provided that that activity does not exceed 48 hours per week on average. Thus, he works as a taxi driver on his own account.

Taking the view that the hours for which he is on stand-by for his employer must be classified as ‘working time’ within the meaning of the Irish legislation on the organisation of working time and Directive 2003/88,<sup>1</sup> MG filed a claim to that effect before the Workplace Relations Commission (Ireland). That claim having been rejected, he lodged an appeal before the Labour Court (Ireland).

MG maintains that he must at all times be in a position to respond rapidly to an emergency call, which prevents him from freely devoting himself to his family and social activities as well as to his employment as a taxi driver. By imposing stand-by 7 days per week and 24 hours per day, and by refusing to acknowledge that stand-by hours constitute working time, the Dublin City Council is in breach of the rules on daily and weekly rest and maximum weekly working time.

Ruling on a request for a preliminary ruling from the Labour Court, the Court of Justice clarifies in particular the extent to which periods of stand-by time according to a stand-by system may be classified as ‘working time’ with regard to Directive 2003/88.<sup>2</sup>

### **Findings of the Court**

The Court recalls, first of all, that the concept of ‘working time’ set out in Article 2(1) of Directive 2003/88 covers the entirety of periods of stand-by time, including those according to a stand-by system, during which the constraints imposed on the worker are such as to affect, objectively and very significantly, the possibility for the latter freely to manage the time during which his or her professional services are not required and to pursue his or her own interests.<sup>3</sup>

<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).

<sup>2</sup> Article 2(1) of Directive 2003/88.

<sup>3</sup> Judgment of 9 March 2021, Stadt Offenbach am Main (A firefighter’s period of stand-by time), [C-580/19](#), (see Press Release [No 35/21](#)).

Next, the Court provides guidance to the referring court to enable it to assess whether MG is subject to such major constraints.

In that regard, the Court observes that the possibility offered to MG to carry out another professional activity during his periods of stand-by time is an important indication that the terms of the stand-by system do not place that worker under major constraints having a very significant impact on the management of his time, provided that it is established that his rights and obligations arising from his employment contract, from collective agreements and from the Irish legislation are structured in such a way as to permit the effective pursuit of such an activity for a significant portion of those periods.

The fact that MG at no time has to be in a specific place during his periods of stand-by time, that he is not obliged to participate in the entirety of the interventions effected from his assigned fire station, since a quarter of them may in this case take place in his absence, and that he is permitted to carry out another professional activity, could constitute objective factors from which it may be concluded that he is in a position to develop, according to his own interests, that other professional activity during those periods and to devote a considerable part of the time of those periods to them, unless the average frequency of the emergency calls and the average duration of the interventions prevent the effective pursuit of a professional activity capable of being combined with the post of retained firefighter.

Organisational difficulties that may result from the choices made by the worker concerned, such as the choice of residence or places for the pursuit of another professional activity which are more or less distant from the place that he must be able to reach within the time limit set in the context of his post as a retained firefighter, may not be taken into account.

Thus, the Court concludes that Article 2(1) of Directive 2003/88 must be interpreted as meaning that a period of stand-by time according to a stand-by system served by a retained firefighter, during which that worker, with the permission of his or her employer, carries out a professional activity on his or her own account but must, in the event of an emergency call, reach his or her assigned fire station within 10 minutes, does not constitute 'working time' within the meaning of that provision if it follows from an overall assessment of all the facts of the case that the constraints imposed on the said worker during that period are not of such a nature as to constrain objectively and very significantly the ability that he or she has freely to manage, during the said period, the time during which his or her services as a retained firefighter are not required.

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**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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