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Judgment of the Court in Case C-272/24 | Tribunalul Galați

A judge who carries out tasks which fall to a vacant post at his or her court, in addition to those within the remit of the post to which he or she has been appointed, is not necessarily entitled to financial compensation

The grant of a rest period to compensate for the additional work is, under certain conditions, an adequate measure

The Galați Regional Court (Romania) is understaffed due to various judicial posts remaining vacant. A judge who has been working at that court since 2017 took the view that, since 2019, he has performed not only the tasks associated with his own post, but also, in part, those tasks linked to vacant posts. Being of the opinion that he has worked overtime, that judge requested that he be remunerated for it. Specifically, he brought legal proceedings to claim a share of the net salaries and allowances attached to the vacant posts, divided by the number of judges in active service, for the period from 2019 to 2021 and for the following years, until those vacant posts are filled.

By judgment of 11 January 2023, the Bucharest Regional Court (Romania) dismissed his action. Under the Romanian legislation in force, the overtime in question can be compensated only by a commensurate rest period. The judge brought an appeal against that judgment before the Bucharest Court of Appeal. He claimed, *inter alia*, that in the light of his actual workload, the faculty of compensating overtime thus worked by a rest period is merely theoretical.

Observing that the Romanian Constitutional Court has held that the financial stability of judges is one of the guarantees of judicial independence, the Bucharest Court of Appeal asked the Court of Justice whether EU law ¹ precludes a provision of national law which restricts compensation for overtime worked by a judge due to a lack of staff in the court where he or she sits to the grant of a rest period.

The Court considers that **the requirement that courts be independent is inherent in the task of adjudication** and forms part of the essence of the fundamental right to effective judicial protection and to a fair hearing. Like the protection against removal from office of the members of the body concerned, the receipt by those members of a level of remuneration commensurate with the importance of their functions constitutes a guarantee essential to that independence. Thus, the level of that remuneration must be such as to protect judges against the risk of corruption.

However, **the principle of judicial independence does not preclude legislation which**, like that in force in Romania, **excludes any financial compensation for work performed by a judge with a view to carrying out additional tasks**. The grant of compensatory rest for that additional work is therefore a sufficient measure and is consistent with EU law.

However, the Court attaches two conditions to that kind of compensation, namely, in the first place, that the person concerned must be able actually to use the compensatory leave which he or she has been granted.

In the second place, such legislation must not have the effect of undermining the commensurate relationship between a judge's remuneration and the importance of his or her functions. National rules on judges' remuneration must not give rise to reasonable doubts, in the minds of individuals, first, as to the imperviousness of the judges concerned to external factors and as to their neutrality with respect to the interests before them or, second, as to the independence of the courts in relation to the legislature and the executive.

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 EU law or the validity of an EU 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 and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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¹ The second subparagraph of Article 19(1) TEU, read in the light of Article 2 TEU and point 5 of the Community Charter of the Fundamental Social Rights of Workers, adopted at the meeting of the European Council held in Strasbourg on 9 December 1989.