

SUMMARY

ECJ 9 March 2021, Case C-344/19 (Radiotelevizija Slovenija), Working Time

DJ – v – Radiotelevizija Slovenija, Slovenian case

Summary

A period of stand-by time according to a stand-by system is not, in its entirety, working time unless the constraints imposed on the worker very significantly affect his or her ability to manage, during that period, his or her freetime.

Question

Must Article 2 of Directive 2003/88 be interpreted as meaning that a period of stand-by time, during which a worker must be contactable by telephone and able to attend his or her workplace, if necessary, within a time limit of one hour, constitutes ‘working time’ within the meaning of that article; and whether the placing of service accommodation at that worker’s disposal because of the difficulty in accessing his or her workplace and the limited nature of the opportunities to pursue leisure activities within the immediate vicinity of that workplace are to be taken into consideration in that classification?

Ruling

Article 2(1) of 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 must be interpreted as meaning that a period of stand-by time according to a stand-by system, during which the worker is required only to be contactable by telephone and able to return to his or her workplace, if necessary, within a time limit of one hour, while being able to stay in service accommodation made available to him or her by his or her employer at that workplace, without being required to remain there, does not constitute, in its entirety, working time

within the meaning of that provision, unless an overall assessment of all the facts of the case, including the consequences of that time limit and, if appropriate, the average frequency of activity during that period, establishes that the constraints imposed on that worker during that period are such as to affect, objectively and very significantly, the latter's ability freely to manage, during the same period, the time during which his or her professional services are not required and to devote that time to his or her own interests. The limited nature of the opportunities to pursue leisure activities within the immediate vicinity of the place concerned is irrelevant for the purposes of that assessment.

Creator: European Court of Justice (ECJ)

Verdict at: 2021-03-09

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