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Recent jurisprudence of the Court of Justice of the European Union

1. Air transport. Regulation (EU) No. 1178/2011. The age limit of 65 years imposed by European Union law for commercial air transport of passengers, cargo or mail pilots is valid. (Judgment of the Court of Justice in Case C-190/16, Fries, EU: C: 2017: 513)

2. Transport. Council Regulation (EC) 261/2004. Compensation due to passengers in the event of cancelling or delaying a direct flight shall be calculated on the basis of the straight line distance between departure and arrival airports. (Judgment of the Court of Justice in Case C-559/16, Bossen and Others, EU: C: 2017: 644)

3. Consumer protection. Directive 93/13 / EEC. Assessment of the abuse in contractual clauses. If a financial institution grants a loan in foreign currency, it must provide the borrower with sufficient information to enable him to make a prudent and informed decision. (Case C-186/16, Andriciuc and Others, CJ: 2017: 703)

4. Protection of the safety and health of workers. Directive 2003/88 / EC. Weekly rest for workers does not necessarily have to be granted on the day following a six consecutive working day. (CJ judgment C-306/16, Maio Marques da Rosa, EU: C: 2017: 844)

(selections by Dragoş Călin)

Recent case law on judicial organization and status of magistrates

1. The constitutional regulations concerning the judicial authority, the Court of Accounts or the Constitutional Court do not preclude, for example, the President of the High Court of Cassation and Justice, the General Prosecutor of Romania, the President of the Superior Council of Magistracy, the President of the Court of Accounts, the President of the Constitutional Court to take part in the work of the parliamentary inquiry commission. However, the same rules oppose the participation of the persons who work within these authorities before the inquiry commissions in connection with their jurisdictional, judicial, and criminal or audit activity, as the case may be.

2. The financial independence of the judiciary cannot be affected by the fact that the administration of budgetary allocations is made by the Ministry of Justice or the High Court of Cassation and Justice, since financial independence is not determined by the existence of a certain person responsible for managing the budgets, but by the existence of sufficient budget allocations to ensure the proper functioning of the courts.

3. The Plenum of the Superior Council of Magistracy may sanction members of the commissions for test drafting in promotion exams or for the settlement of the contestations, who are responsible for annulment of some of the tests, when acted in bad faith or serious negligence, with the reduction of pecuniary rights due for the performed activity. Implementation of the sanction can only be achieved if the person is held liable and only if he has acted in bad faith or serious negligence, and the mere granting of complaints on the way the test was elaborated would not be regarded *ope legis* as attracting the application of the sanction consisting in the reduction of pecuniary rights due to members of the test drafting commissions.

4. The availability of exam positions for promotion in order to gain a superior professional rank while keeping the current office, only for the Prosecutor's Office of the High Court of Cassation and Justice, but not for the judges, namely a professional level of judge of the High Court of Cassation and Justice, does not qualify as discrimination, the two categories of magistrates not being in a similar situation. Although by such a promotion system prosecutors may acquire the professional rank of Prosecutor's Office of the High Court of Cassation and Justice, while the judges can obtain by the same exam at most the rank of court of appeal judge, in order to obtain a promotion and an actual office at the High Court of Cassation and Justice, same conditions and same exam apply to all magistrates.

5. The compensatory provisions provided by art. 1 paragraph 5 ind. 1 of OUG no.83/2014 do apply to judges being in the situation provided by the legal norm hypothesis, namely those who have a basic salary amount and bonuses lower than other salary and bonuses fixed at maximum level within the same institution or public authority for each function/grade/level and gradation, this being the only meaning of the legal norm that stems from the corroborated interpretation of the provisions of Law no.71/2015 with those of the EGO no.83/2014. Therefore, the law deals only with the salary and bonus differences between judges having the same period of office and same gradation, differences resulting from different ways of salary and bonus calculation in relation to periods of office and fluctuation of legal norms, and deals not with differences between different categories of magistrates, namely judges and prosecutors.

6. Allowing the Superior Council of Magistracy to establish the essential elements of the employment relationship and, implicitly, of the statute of the magistrates, by means of infra-legal norms, the law provides a relativistic and forbidden attachment to the procedure and to the cases of termination of secondment. These rules must comply with certain requirements of stability, predictability and clarity, and the issuance of administrative acts of a regulatory nature, of an infra-legal level, in this matter, causes a state of legal uncertainty.

7. In the context of administrative practice, both in terms of the activity of the Superior Council of Magistracy and that of the National Integrity Agency, the teaching activity carried out within the programs of training and professional development of other legal professions does not violate the legal regime of incompatibilities, as a result of being magistrate and trainer at the same time.

8. Lack of public debate on the draft for amendment of the "laws of justice" proposed by the Minister of Justice. Compliance with the minimum rights covered by Art. 7 of the Law no. 52/2003 is an imperative obligation for public authorities and, implicitly, an essential duty in a democratic society. Correlatively, in relation to the imperative of this

obligation of the public administration, the right of the civil society to participate in this decision-making process is an essential right whose violation renders necessary and obligatory the intervention of the administrative contentious court.

(selections by Dragoş Călin and Paula-Andrada Coţovanu)

PRESENTATIONS

Brochure "Romanian magistrates oppose the draft amendment to the "laws of justice" proposed by the Ministry of Justice: August-October 2017"

HAPPY REGISTRY

US judgment in the form of a letter to the parties. Re A (Letter to a Young Person) [2017] EWFC 48 (Family Court, Peter Jackson J, 26 July 2017)