Court of Justice of the European Union
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Press and Information

Judgment in Case C-306/16
Maio Marques da Rosa v Varzim Sol— Turismo, Jogo e Animação SA

The weekly rest period for workers does not necessarily have to be granted the day following six consecutive working days

It may be granted on any day during each seven-day period

Mr António Fernando Maio Marques da Rosa was employed from 1991 to 2014 by the company Varzim Sol — Turismo, Jogo e Animação ('Varzim Sol'), which owns and runs a casino in Portugal. That casino is open every day, except 24 December, from the afternoon until the following morning. During 2008 and 2009, Mr Maio Marques da Rosa sometimes worked for seven consecutive days. From 2010 Varzim Sol altered the schedules so that employees worked no more than six consecutive days. His employment contract having ended in March 2014, Mr Maio Marques da Rosa brought an action against Varzim Sol seeking a finding, in essence, that that company had not granted him the compulsory rest days to which he claimed to be entitled. He claimed damages and compensation in respect of remuneration due for overtime worked.

The directive on the organisation of working time[1] provides that every worker is entitled, per each seven-day period, to a minimum uninterrupted rest period of 24 hours plus 11 hours' daily rest.

The Tribunal da Relação do Porto (Court of Appeal, Oporto) has doubts regarding the interpretation of the directive and asks the Court of Justice whether the minimum uninterrupted weekly rest period of 24 hours to which a worker is entitled must be provided no later than the day following a period of six consecutive working days.[2]

By today's judgment, the Court finds that EU law does not require the minimum uninterrupted weekly rest period to be provided no later than the day following a period of six consecutive working days, but requires it to be provided within each seven-day period.

First, the Court considers that the expression 'per each seven-day period' does not contain any reference to the national law of the Member States, and is thus an autonomous concept of EU law which must be interpreted uniformly.

Next, the Court analyses the wording, context and objective of the directive. As regards the **wording** the Court states that it is apparent from the actual wording of the directive that the Member States are required to ensure that every worker enjoys, during a seven day period, a minimum uninterrupted rest period of 24 hours (plus the 11 hours' daily rest provided for), **but it is not specified when that minimum rest period must be granted**.

Next, as regards **the context** of the expression 'per each seven-day period', the Court considers that **that period may be regarded as a reference period**, that is a set period within which a

[1] 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). That directive, with effect from 2 August 2004, codified the provisions of Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (OJ 1993 L 307, p. 18), as amended by Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000 (OJ 2000 L 195, p. 41).

[2] The Portuguese, Hungarian, Polish, Finnish and Swedish Governments and the European Commission submitted observations on the case.

certain number of consecutive rest hours must be provided irrespective of when those rest hours are granted.

Lastly, concerning **the objective** of the directive, the Court recalls that its purpose is effectively to protect the safety and health of workers. Each worker must therefore enjoy adequate rest periods. However, **the directive leaves a degree of flexibility in its implementation, thus conferring on the Member States a discretion as regards fixing the time when that minimum period must be granted**. That interpretation may benefit the worker, since it enables several consecutive rest days to be given to the worker at the end of a reference period and at the start of the following period.

Finally, the Court states that the **directive merely establishes minimum standards for the protection of workers concerning the organisation of working time**. The Member States may therefore apply or introduce provisions more favourable to the protection of the health and safety of workers, or facilitate or permit the application of collective agreements or agreements concluded between the two sides of industry which are more favourable.

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 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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