



The salary reductions applied to the judges of the Tribunal de Contas in Portugal do not infringe the principle of judicial independence

Those measures, adopted in the context of EU financial assistance to that Member State, affected, in a general and temporary manner, a large part of the Portuguese public administration

The Portuguese legislature temporarily reduced, as from October 2014, the remuneration of a series of office holders and employees performing duties in the public sector, including the judges of the Tribunal de Contas (Court of Auditors, Portugal). A 2015 Law gradually, as from 1 January 2016, brought those reduction measures to an end.

The Associação Sindical dos Juizes Portugueses (Trade Union of Portuguese Judges, 'the ASJP'), acting on behalf of members of that court, brought an action before the Supremo Tribunal Administrativo (Supreme Administrative Court, Portugal) seeking the annulment of those budgetary measures. The ASJP contends that the salary-reduction measures infringe 'the principle of judicial independence' enshrined not only in the Portuguese Constitution but also in EU law.

According to the Supremo Tribunal Administrativo, the measures for the temporary reduction in the amount of public sector remuneration are based on mandatory requirements for reducing the Portuguese State's excessive budget deficit that were imposed on the Portuguese Government by the EU in exchange, in particular, for financial assistance to that Member State. The Supremo Tribunal Administrativo notes, however, that the Portuguese State is also under an obligation to respect the general principles of EU law, which include the principle of judicial independence, applicable both to Courts of the EU and national courts. According to the Supremo Tribunal Administrativo, the effective judicial protection of the rights stemming from the EU legal order is ensured primarily by the national courts. The latter must implement that protection in accordance with the principles of independence and impartiality. The Supremo Tribunal Administrativo states that the independence of judicial bodies depends on the guarantees that attach to their members' status, including in terms of remuneration. It asks the Court of Justice, therefore, whether the principle of judicial independence precludes general salary-reduction measures from being applied to members of a Member State's judiciary, when such measures are, as in the present case, linked to requirements to eliminate an excessive budget deficit and to an EU financial assistance programme.

By today's judgment, the Court rules that the principle of judicial independence does not preclude the measures at issue from being applied to the members of the Tribunal de Contas.

The Court emphasises, first of all, the importance of the principle of effective judicial protection as a general principle of EU law stemming from the constitutional traditions common to the Member States, and which is now reaffirmed in the Charter of Fundamental Rights of the European Union. It is, therefore, for the Member States to provide that their judicial systems ensure effective judicial review in the fields covered by EU law. The very existence of that review, designed to ensure compliance with EU law, is of the essence of the rule of law.

It follows that every Member State must ensure that the bodies which, as 'courts or tribunals' within the meaning of EU law, come within its judicial system in the fields covered by that law, meet the requirements of effective judicial protection.

To the extent that the Tribunal de Contas may, as a 'court or tribunal', rule on questions concerning the application or interpretation of EU law — which it will be for the Supremo Tribunal Administrativo to verify — Portugal must, therefore, ensure that that court meets the requirements essential to effective judicial protection.

The Court points out, next, that maintaining such a court or tribunal's independence is essential and inherent in the task of adjudication. It is required not only at EU level, but also at the level of the Member States and, therefore, as regards national courts. It is essential to the proper working of the judicial cooperation system between national courts and the Court.

In that context, the Court makes clear that the concept of independence presupposes, in particular, that the body concerned exercises its judicial functions wholly autonomously, without being subject to any hierarchical constraint or subordinated to any other body and without taking orders or instructions from any source whatsoever, and that it is thus protected against external interventions or pressure liable to impair the independent judgment of its members and to influence their decisions. The Court adds that the receipt by the members of the court or tribunal concerned of a level of remuneration commensurate with the importance of the functions they carry out constitutes a factor which is essential to judicial independence.

However, **the Court holds that the salary-reduction measures at issue cannot be considered to impair the independence of the members of the Tribunal de Contas.** Those measures were applied not only to the members of the Tribunal de Contas, but, more widely, to various public office holders and employees performing duties in the public sector, including the representatives of the legislature, the executive and the judiciary. **They are, therefore, in the nature of general measures seeking a contribution from all members of the national public administration to the austerity effort dictated by the mandatory requirements for reducing the Portuguese State's excessive budget deficit.** In addition, **the measures at issue were temporary in nature,** since they entered into force on 1 October 2014 and were definitively repealed on 1 October 2016.

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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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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