LEGAL UPDATE EMPLOYMENT LAW
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CJEU: Time spent travelling is working time – even for passengers

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Article 2 no. 1 of Directive 2003/88/EC provides that "working time" means any period during which the worker is working, at the employer's disposal and carrying out his activity or duties. The question frequently arises whether transit time qualifies as working time, in particular between different places of work. In a recent judgment dated 09/10/2025 (case no: C-110/24), the Court of Justice of the European Union (CJEU) ruled that certain travel time should be classified as working time if it is inextricably linked to activities prescribed by the employer.

Facts of the matter

This ruling was based on a dispute between a trade union and a public undertaking that works in the area of environmental protection and nature conservation. The employees were organised into mobile units and carried out their work in various conservation areas without having a fixed place of work.

They arrived daily at a fixed time at a "base", a point of departure determined by the employer. From there they travelled in a vehicle provided by the employer to various locations which was driven by an employee and loaded with the equipment required to carry out the work. After finishing their work, the workers were driven back to the base in the same vehicle, from which they returned to their homes by their own means. While the outward journey was partially classed as working time, the return journey was previously not classed as working time.

The workers brought a claim asserting that the return journeys were also working time as they were subject to the instructions of their employer and therefore were not freely able to dispose of their time.

The Spanish court therefore referred the matter to the Court of Justice of the European Union to determine whether these return journeys classed as working time in terms of the aforementioned Directive.

Ruling

The Court of Justice of the European Union held that in the circumstances of this case both the outward journey and the return journey were to be classed as working time in terms of Article 2 no. 1 of Directive 2003/88/EC.

The court ruled that three criteria were decisive here.

Firstly, the workers were working and carrying out their activity or duties during the journeys. The outward and return journeys were fully fixed by the employer, who determined the method of transport, outward and return journey times as well as the starting and finishing locations. As the workers were obligated to visit the respective locations in order to fulfil their obligations under their employment contract, these journeys were inextricably linked to their work activities and therefore necessary components of performing their work.

Secondly, the workers were at their employer's disposal during the journeys. They were obligated to arrive at certain locations at prescribed times and to follow the instructions of their employer. They were not free to dispose of their time as they wished.

Thirdly, the workers were also working during the journeys in terms of EU law as they had no fixed place of work and the journeys were an integral component of their activities.

Comments

This decision compounds EU law on how to classify transit time. After this decision it will not matter whether the worker is driving the vehicle themself or is merely a passenger. In particular, for workers without a fixed place of work a closer examination will have to be made as to whether their journeys should be classed as working time.

Classifying as working time only initially affects working time in accordance with the German Working Time Act (Arbeitszeitgesetz). The act contains other provisions on recovery time and maximum number of hours permitted to be worked per week. It does not cover statements on remuneration. Whether journey times need to be paid is determined by further labour law provisions. The contracting parties are free to make deviating provisions on the payment of journey times, provided mandatory collective bargaining and statutory provisions, in particular in accordance with the German Minimum Wage Act (Mindestlohngesetz), are adhered to.

In this context, the judgment of the Federal Labour Court (Bundesarbeitsgericht, BAG) dated 22/04/2009 (case no: 5 AZR 292/08) is also relevant. The BAG held that for field employees and workers with changing work locations the journey to the first customer, journeys between customers and the return journey from the last customer all count as carrying out work and therefore are to be fundamentally counted as working time. This applies regardless of whether the beginning and end of work are at the office or at home.

If you require any further information on this topic please contact us and we will be happy to help.

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Please note:
This overview is solely provided for information purposes and should not replace professional legal advice. If you have any questions, please contact your usual contact at GÖRG or the author Nadine Mayer on +49 89 3090667-574 or nmayer@goerg.de. Information about the author is available on our website www.goerg.de.

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