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Judgment in Case E-11/20 *Eyjólfur Orri Sverrisson* v *The Icelandic State*

NECESSARY TRAVEL TIME OUTSIDE WORKING HOURS CONSTITUTES "WORKING TIME"

In a judgment delivered today, the Court answered questions referred by Reykjavík District Court (*Héraðsdómur Reykjavíkur*) regarding the interpretation 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 ("the Directive").

The case in the main proceedings concerned an employment dispute between Eyjólfur Orri Sverrisson and the Icelandic Transport Authority ("ICETRA"). The question arose whether the time spent by Mr Sverrisson travelling between his home and his destination abroad, on behalf of ICETRA, is to be considered working time.

The referring court asked whether time spent travelling to and/or from a location other than the worker's fixed or habitual place of attendance, in order to carry out his activity or duties in that other location, as required by his employer, constitutes working time within the meaning of Article 2(1) of the Directive, in particular, when it falls outside standard working hours. It also asked if it is of significance whether the journey made by the employee for the employer is made domestically or between countries and whether it is of significance what form the work contribution takes during the journey.

The Court held that although the definition of "working time" in Article 2(1) of the Directive refers to national laws and/or practice, this does not entail that the EEA States may unilaterally determine the scope of that concept. Whether time is considered "working time" depends on whether the worker (i) is carrying out his activity or duty in the context of the worker's employment relationship, (ii) is at the employer's disposal during that time, and (iii) is working during that period of time. The Court concluded that the meaning of "working time" must encompass the necessary time spent travelling outside normal working hours by a worker to and/or from a location other than his fixed or habitual place of attendance in order to carry out his activity or duties in that other location, as required by his employer.

The Court also held that in making a journey to a location other than the worker's fixed or habitual place of attendance, it is immaterial whether that journey is made entirely within the EEA or to or from third countries if the employment agreement is established under and governed by the national law of an EEA State.

Furthermore, the Court confirmed that during such work trips, a hotel or other suitable lodging, even if determined by the employer, may be treated in an equivalent manner to the worker's home for the purpose of determining "rest periods". No assessment of the intensity of the work performed while travelling is required.

The full text of the judgment may be found on the Court's website: www.eftacourt.int.

This press release is an unofficial document and is not binding upon the Court.