

Portugal, Superior Council of the Judiciary, July 2021

Member State

 Portugal

Topic

Conflict of interests; individual judges' liability

Sector

Judicial Council; Disciplinary proceedings; Judicial Ethics.

Deciding Court Original Language

Conselho Superior da Magistratura

Deciding Court English translation

Superior Council of the Judiciary

Registration N

N/A

Date Decision

Not yet publicly available

ECLI (if available)

N/A

National Follow Up Of (when relevant)

N/A

EU legal sources and CJEU jurisprudence

N/A

ECtHR Jurisprudence

N/A

Subject Matter

Conflict of interests; individual judges' liability

Legal issue(s)

The legal issue here is whether a judge exercising public functions can accumulate income from other private functions.

Request for expedited/PPU procedures

No

Interim Relief

N/A

National Law Sources

Article 39 (2) of the Portuguese Constitution; Statute of Judicial Magistrate – article 8-A.

Facts of the case

In February 2020, news emerged that Judge Vaz das Neves, who had been President of the Lisbon Court of Appeal, had used the main hall of that court to carry out a private arbitration, on the fringes of the proceedings going on in that court. With this private trial Judge Vaz das Neves won € 280,000. This goes against the incompatibilities prescribed in article 8-A, number 3, of the Statute of Judicial Magistrates.

At the same time, Judge Vaz das Neves was (and is) accused in the so-called «Operação Lex», on suspicion of corruption and abuse of power related to the electronic distribution of cases and due to the fact that he, as a judge, has a company that, in 2018, invoiced € 190,000.

Reasoning (role of the Charter or other EU, ECHR related legal basis)

It is important to note that, in Portugal, the law (namely the Statute of Judicial Magistrates) prevents judicial magistrates in office or retired from accumulating what they receive with any other public or private remunerated activity. Even regarding compatible and unpaid activities, the Statute provides that judges must request authorization from the Superior Council for the Judiciary - see article 8-A, no 3, mentioned above.

Considering the above, the Superior Council of the Judiciary unanimously decided to impose a single disciplinary sanction of 210 days (seven months) of suspension from office, 'replaced by the loss of pension for the corresponding period', alleging 'violation of the duties of impartiality' and 'pursuit of the public interest'.

Relation of the case to the EU Charter

N/A

Relation between the EU Charter and ECHR

N/A

Use of Judicial Interaction technique(s)

N/A

Horizontal Judicial Interaction patterns (Internal – with other national courts, and external – with foreign courts)

N/A

Vertical Judicial Interaction patterns (Internal – with other superior national courts, and external – with European supranational courts)

N/A

Strategic use of judicial interaction technique (purpose aimed by the national court)

N/A

Impact on Legislation / Policy

N/A

Notes on the national implementation of the preliminary ruling by the referring court

N/A

Did the national court quote case law of the CJEU/ECtHR (in particular cases not already referred to by the CJEU in its decision) or the Explanations?

N/A

Did the national court quote soft law instruments, such as GRECO Reports, Venice Commission, CEPEJ Reports, or CCEJ Reports?

N/A

Did the national court take into account national case law on fundamental rights?

N/A

If the court that issued the preliminary reference is not a last instance court, and the “follow up” was appealed before a higher court, include the information

N/A

Was there a consensus among national courts on how to implement the CJEU's preliminary ruling; and were there divergences between the judiciary and other state powers regarding the implementation of the preliminary ruling?

N/A

Impact on national case law from the same Member State or other Member States

N/A

Connected national caselaw / templates

N/A

Other

N/A

(Link to) full text

N/A

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History of the case: (please note the chronological order of the summarised/referred national judgments.)

N/A
