

Portugal, Superior Council of the Judiciary, April 2024

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 Magistrates – article 8-A.

Facts of the case

H. was a judge who worked at the Matosinhos Court and was now posted to the Algarve. He was involved in 'suspicious property deals' that are being investigated by the Judiciary Police and the Porto's Department of Investigation and Penal Action. He was also involved in deals regarding cryptocurrencies and in aiding illegal immigration. In total, he is thought to have moved 200 million euros over the last few years.

This investigation involved telephone tapping, and the suspicions gave rise to Operation Babel, which is investigating offences related to the Vila Nova de Gaia and Espinho town halls.

The judge has not yet been charged by the Public Prosecutor's Office, but he is a defendant in a case in which he is accused of laundering offences and aiding illegal immigration.

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

The vote in the Superior Council of the Judiciary was unanimous: all the members of the plenary voted in favour of expulsion of H.

Even if there is no criminal offence, the Magistrates' Statute clearly forbids involvement in business dealings, even if they are legal – see article 8-A of the Statute of Judicial Magistrates. The plenary considered that there had been a violation of the duty of exclusivity and the practice of acts which, due to their nature and repercussions, are incompatible with the requirements of independence, impartiality and dignity indispensable to the exercise of the functions proper to a judicial magistrate, under the terms of the Statute of Judicial Magistrates.

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
