



## **Remuneration for overtime only where employer is aware - Labour law**

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GRP Rainer Lawyers and Tax Advisors in Cologne, Berlin, Bonn, Dusseldorf, Frankfurt, Hamburg, Munich, Stuttgart and London - [www.grprainer.com/en](http://www.grprainer.com/en) conclude: An employee initially sued for payment of overtime before the Kaiserslautern Labour Court and then before the Mainz Regional Labour Court (LAG) (Az.: 5 Sa 257/13), however both Courts dismissed the claim. The plaintiff, an employed lawyer, argued that he had to work longer than contractually agreed on the cases assigned to him. The employer countered, on the one hand, that it was not aware of the extra work and, on the other hand, that the extra work had not been recognizable.

The LAG noted in its statement of grounds that a claim for remuneration of the extra work could exist if remuneration was expected in the event of extra work, e.g. because the amount of wages did not indicate a lump-sum compensation of overtime and the extra work went beyond the regular working hours. In the present case, this was satisfied due to the comparatively low gross wages, yet the plaintiff's demands were nonetheless unsuccessful.

This is because, in the Court's view, the claim for payment of overtime had to be set out on the basis of differentiated information. This includes, for example, the details of the exact days and time of day at which overtime was performed and also the tasks carried out. Moreover, the employee would also have to state whether the overtime was prescribed or approved by the employer. A reference to the appropriateness of the overtime alone would not be sufficient.

In the instant case, the plaintiff did not satisfy these requirements. Not once during his ten-year employment did he make the defendant aware that it was necessary for him to do overtime to finish his work. The employer could therefore have assumed that the plaintiff was finishing his work within the contractually agreed timeframe. For this reason, there is no claim for remuneration of overtime.

Employee and employer should already be in agreement in the employment contract on all relevant points. With the help of a lawyer versed in the field of labour law, both parties can ensure that their interests are sufficiently accounted for in the contract. In addition, a lawyer can assist in enforcing any claims of the parties in the event of a legal dispute.

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Anlage: Bild

