

- (b) Is Article 11 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC to be interpreted as meaning that fishing vessels of another Member State which sail under the flag of the Federal Republic of Germany also fall within the concept of ‘fishing vessels of other Member States’?
- (c) Is Article 11 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC to be interpreted as meaning that such measures adopted by a Member State which merely promote the objectives listed in that Union legislation also fall within the concept of ‘meet[ing] the objectives of the relevant Union legislation’?
2. Is Article 11 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC to be interpreted as precluding measures of a Member State in respect of waters under its sovereignty or jurisdiction which are necessary in order to comply with its obligations under Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability ⁽³⁾ with regard to the prevention and remedying of environmental damage?
3. Insofar as Question 1 and Question 2 are to be answered, either individually or cumulatively, in the negative:

Does the exclusive competence of the European Union in the field of conservation of marine biological resources under the Common Fisheries Policy pursuant to Article 3(1)(d) of the Treaty on the Functioning of the European Union preclude the adoption of the aforementioned measures by the Member State?

⁽¹⁾ OJ 2013 L 354, p. 22.

⁽²⁾ OJ 1992 L 206, p. 7.

⁽³⁾ OJ 2004 L 143, p. 56.

Request for a preliminary ruling from the Bundesarbeitsgericht (Germany) lodged on 27 December 2016 — Max-Planck-Gesellschaft zur Förderung der Wissenschaften eV v Tetsuji Shimizu

(Case C-684/16)

(2017/C 104/46)

Language of the case: German

Referring court

Bundesarbeitsgericht

Parties to the main proceedings

Applicant: Max-Planck-Gesellschaft zur Förderung der Wissenschaften eV

Defendant: Tetsuji Shimizu

Questions referred

1. Does Article 7(1) 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 (Directive 2003/88/EC) ⁽¹⁾ or Article 31(2) of the Charter of Fundamental Rights of the European Union (‘the Charter’) preclude national legislation, such as Paragraph 7 of the Bundesurlaubsgesetz (Federal law on leave, ‘the BUrlG’), under which, as one of the methods of exercising the right to annual leave, an employee must apply for such leave with an indication of his preferred dates so that the leave entitlement does not lapse at the end of the relevant period without compensation and under which an employer is not required, unilaterally and with binding effect for the employee, to specify when that leave be taken by the employee within the relevant period?

2. If the first question is answered in the affirmative:

Does this apply even where the employment relationship is between two private persons?

⁽¹⁾ OJ 2003 L 299, p. 9.

Request for a preliminary ruling from the Tribunal Superior de Justicia de Galicia (Spain) lodged on 2 January 2017 — Instituto Nacional de la Seguridad Social v Tesorería General de la Seguridad Social, Jesús Crespo Rey

(Case C-2/17)

(2017/C 104/47)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Galicia

Parties to the main proceedings

Appellant: Instituto Nacional de la Seguridad Social

Other parties: Tesorería General de la Seguridad Social, Jesús Crespo Rey

Questions referred

1. Must the expression ‘the contribution basis in Spain which is closest in time to the reference periods’, referred to in Annex XI(G)(2) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, be interpreted as excluding those contribution bases arising from the application of Spanish domestic legislation ⁽¹⁾ under which a migrant worker who has returned to Spain and whose actual final Spanish contributions are higher than the minimum bases may conclude an agreement maintaining the contributions in accordance only with the minimum bases, whereas, if he were a non-migrant worker, he could have concluded such an agreement on higher bases?
2. In the event of an affirmative answer to the previous question, and in accordance with Annex XI(G)(2) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004, do taking the last actual contributions made in Spain, duly updated, and regarding the contribution period under the agreement maintaining contributions as a neutral period or interval constitute remedies appropriate for indemnifying the damage done to the migrant worker?

⁽¹⁾ OJ 2004, L 166, p. 1.

Request for a preliminary ruling from the Curtea de Apel Cluj (Romania) lodged on 10 January 2017 — Maria Dicu v Ministerul Justiției, Consiliul Superior al Magistraturii, Curtea de Apel Suceava, Tribunalul Botoșani

(Case C-12/17)

(2017/C 104/48)

Language of the case: Romanian

Referring court

Curtea de Apel Cluj

Parties to the main proceedings

Applicant: Maria Dicu