

In the event that the answer to Question 7 is negative:

8. May a Turkish national, whose legal status derives from the second indent of the first sentence of Article 7 of Decision No 1/80, rely on the special protection against expulsion under Article 28(1) of Directive 2004/38?

In the event that the continuance of a legal status under the second indent of the first sentence of Article 7 of Decision No 1/80 is to be assumed (if the answer to Question 1 is affirmative or the answer to Question 2 is affirmative and the answers to Questions 3 and 4 are negative), a further question requires an answer:

9. Can a number of minor offences (essentially offences against property), which, taken individually, are not sufficient to form the basis of an actual and sufficiently serious danger to a fundamental interest of society, justify expulsion because of their great number, if further offences are likely and no measures are taken against German nationals in the same circumstances?

---

(<sup>1</sup>) OJ 1977 L 361, p. 60.

---

**Reference for a preliminary ruling from the Landesarbeitsgericht Düsseldorf (Germany) lodged on 21 August 2006 — Gerhard Schultz-Hoff v Deutsche Rentenversicherung Bund**

(Case C-350/06)

(2006/C 281/33)

*Language of the case: German*

**Referring court**

Landesarbeitsgericht Düsseldorf

**Parties to the main proceedings**

*Appellant:* Gerhard Schultz-Hoff

*Respondent:* Deutsche Rentenversicherung Bund

**Questions referred**

1. Is Article 7(1) of Directive 2003/88/EC (<sup>1</sup>) (= Article 7 of Directive 93/104/EC) to be understood as meaning that workers must in any event receive minimum annual paid leave of four weeks [and that] in particular leave not taken by a worker because of illness during the leave year must be

authorised at a later date, or can national legal provisions and/or national practice stipulate that an entitlement to annual paid leave is extinguished if workers become incapacitated for work during the leave year before leave is authorised and do not recover their capacity for work before the end of the leave year or the carry-over period laid down by statute, collective agreement or individual agreement?

2. Is Article 7(2) of Directive 2003/88/EC to be understood as meaning that at the end of the employment relationship workers have, in any event, a claim to financial compensation in respect of leave accrued but not taken (an allowance in lieu of leave), or can national legislation and/or national practice stipulate that workers will not receive an allowance in lieu of leave if, up to the end of the leave year or the relevant carry-over period, they are incapacitated for work and/or if after the ending of the employment relationship they draw a disability or invalidity pension?
3. In the event that the Court of Justice answers Questions 1 and 2 in the affirmative:

Is Article 7 of Directive 2003/88/EC to be understood as meaning that the entitlement to annual leave or an allowance in lieu requires the worker actually to have worked during the leave year, or does the entitlement arise also in the case of excusable absence (by reason of illness) or inexcusable absence in the same leave year?

---

(<sup>1</sup>) OJ L 299, p. 9.

---

**Reference for a preliminary ruling from the Finanzgericht Köln lodged on 25 August 2006 — Brigitte Bosmann v Bundesagentur für Arbeit, Familienkasse Aachen**

(Case C-352/06)

(2006/C 281/34)

*Language of the case: German*

**Referring court**

Finanzgericht Köln

**Parties to the main proceedings**

*Applicant:* Brigitte Bosmann

*Defendant:* Bundesagentur für Arbeit, Familienkasse Aachen