

3. Are the provisions of Article 6 of Directive 2003/88/CE, entitled 'Maximum weekly working time', infringed where, even though the individual contract of employment provides for a maximum working time of 8 hours a day and 40 hours a week, the forester must in fact, because of legal obligations, carry out wardenship duties on a continuous basis in respect of the section of the forest with the management of which he is entrusted?
4. In the event that question 1 is answered in the affirmative, is the employer obliged to pay wages or similar remuneration in respect of the time during which the forester is required to carry out wardenship duties?
5. In the event that question 1 is answered in the negative, what legal rules apply to the hours during which a forester is responsible for carrying out wardenship duties in respect of the forest with the management of which he is entrusted?

(¹) OJ 2003 L 299, p. 9.

Reference for a preliminary ruling from the Tribunal Superior de Justicia de Castilla-León (Spain) lodged on 25 May 2010 — Pedro Antonio Macedo Lozano v Gerardo García, S.L.

(Case C-261/10)

(2010/C 221/34)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Castilla-León

Parties to the main proceedings

Applicant: Pedro Antonio Macedo Lozano

Defendant: Gerardo García, S.L.

Questions referred

1. Are Articles 3, 5(2), 6 and 7 of Directive 2003/10/EC (¹) to be interpreted as meaning that a company in which the workers' daily noise exposure level is above 85 dbA

(measured without taking account of the effect of hearing protectors) fulfils the obligations to take preventive measures laid down in that Directive in respect of physical working conditions by providing those workers with hearing protectors so that, with the level of attenuation provided by those protectors, the workers' daily noise exposure level is reduced to less than 80 dbA?

2. Is Article 5(2) of Directive 2003/10/EC to be interpreted as meaning that the 'programme of technical and/or organisational measures' which must be adopted by a company in which the workers' daily noise exposure level is above 85 dbA (measured without taking account of the effect of hearing protectors) is intended to reduce the noise exposure level to below 85 dbA?
3. If question 1 is answered in the negative, does Directive 2003/10/EC preclude a national rule or judicial approach which exempts a company from making a monetary payment, which in principle it must pay to workers affected by daily noise exposure levels of over 85 dbA, because the company has provided those workers with hearing protectors whose attenuating effect causes daily exposure to remain under 80 dbA?

(¹) Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) (Seventeenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ 2003 L 42, p. 38).

Action brought on 28 May 2010 — European Commission v Kingdom of Belgium

(Case C-265/10)

(2010/C 221/35)

Language of the case: Dutch

Parties

Applicant: European Commission (represented by: P. Oliver and M. van Beek, acting as Agents)

Defendant: Kingdom of Belgium