

Parties to the main proceedings

Applicant: Gülay Bollacke

Defendant: K + K Klaas & Kock B.V. & Co. KG

Questions referred

1. Is Article 7(1) of Directive 2003/88/EC ⁽¹⁾ to be interpreted as precluding national legislation or practice according to which the entitlement to a minimum period of paid annual leave is lost in its entirety on the death of the worker, namely not only the entitlement to release from the obligation to work, which can no longer be implemented, but also the entitlement to payment of remuneration in respect of annual leave?
2. Is Article 7(2) of Directive 2003/88/EG to be interpreted as meaning that the entitlement to an allowance in lieu of a minimum period of paid annual leave on termination of the employment relationship attaches to the person of the worker in such a way that that entitlement accrues only to him, in order to enable him to realise at a later date the purposes of rest and leisure associated with the granting of paid annual leave?
3. Is Article 7(1) of Directive 2003/88/EC to be interpreted as meaning that, having regard to the protection of the safety and health of workers, the employer is obliged, when organising working time, actually to grant the worker leave by the end of the calendar year or, at the latest, by the end of a carry over period applicable to the employment relationship, regardless of whether or not the worker has submitted an application for leave?

⁽¹⁾ 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 (OJ 2003 L 299, p. 9).

Request for a preliminary ruling from the Tribunal da Relação de Lisboa (Portugal) lodged on 18 March 2013 — Cruz & Companhia Lda v IFAP — Instituto de Financiamento da Agricultura e Pescas, IP and Others

(Case C-128/13)

(2013/C 171/21)

Language of the case: Portuguese

Referring court

Tribunal da Relação de Lisboa

Parties to the main proceedings

Applicant: Cruz & Companhia Lda

Defendants: IFAP — Instituto de Financiamento da Agricultura e Pescas, IP and Caixa Central — Caixa Central de Crédito Agrícola Mútuo, CRL

Questions referred

The Court of Justice of the European Union is requested to give a preliminary ruling, in the light of the arguments of the parties, on the interpretation to be given to Article 4(1) of Commission Regulation (EEC) No 3665/87 of 27 November 1987 ⁽¹⁾ and Article 19(1)(a) of Commission Regulation (EEC) No 2220/85 of 22 July 1985, ⁽²⁾ in relation to the ‘release’ of the security provided in the context of Article 22(1) of Commission Regulation (EEC) No 3665/87.

⁽¹⁾ Commission Regulation (EEC) No 3665/87 of 27 November 1987 laying down common detailed rules for the application of the system of export refunds on agricultural products (OJ 1987 L 351, p. 1).

⁽²⁾ Commission Regulation (EEC) No 2220/85 of 22 July 1985 laying down common detailed rules for the application of the system of securities for agricultural products (OJ 1985 L 205, p. 5).

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 18 March 2013 — Kamino International Logistics BV, other party: Staatssecretaris van Financiën

(Case C-129/13)

(2013/C 171/22)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Kamino International Logistics BV

Respondent: Staatssecretaris van Financiën

Questions referred

1. Does the European law principle of respect for the rights of the defence by the authorities lend itself to direct application by the national courts?
2. If the answer to Question 1 is in the affirmative:
 - (a) must the European law principle of respect for the rights of the defence by the authorities be interpreted to mean that the principle was infringed when the addressee of an intended decision was not given a hearing before the authorities adopted a measure which adversely affected it but was given the opportunity to be heard in a subsequent (objection) phase, which precedes access to the national courts?

- (b) are the legal consequences of the infringement by the authorities of the European law principle of respect for the rights of the defence governed by national law?
3. If the answer to question 2b is in the negative: what circumstances may the national courts take into account when determining the legal consequences, and in particular may they take into account whether it is likely that, without the infringement by the authorities of the European law principle of respect for the rights of the defence, the proceedings would have had a different outcome?

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 18 March 2013 — Datema Hellman Worldwide Logistics BV, other party: Staatssecretaris van Financiën

(Case C-130/13)

(2013/C 171/23)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Datema Hellman Worldwide Logistics BV

Respondent: Staatssecretaris van Financiën

Questions referred

- Does the European law principle of respect for the rights of the defence by the authorities lend itself to direct application by the national courts?
- If the answer to Question 1 is in the affirmative:
 - must the European law principle of respect for the rights of the defence by the authorities be interpreted to mean that the principle was infringed when the addressee of an intended decision was not given a hearing before the authorities adopted a measure which adversely affected it but was given the opportunity to be heard in a subsequent (objection) phase, which precedes access to the national courts?
 - are the legal consequences of the infringement by the authorities of the European law principle of respect for the rights of the defence governed by national law?

- If the answer to question 2b is in the negative: what circumstances may the national courts take into account when determining the legal consequences, and in particular may they take into account the fact that, without the infringement by the authorities of the European law principle of respect for the rights of the defence, the proceedings would have had a different outcome?

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 18 March 2013 — Staatssecretaris van Financiën, other party: Schoenimport 'Italmoda' Mariano Previti

(Case C-131/13)

(2013/C 171/24)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Appellant: Staatssecretaris van Financiën

Other party: Schoenimport 'Italmoda' Mariano Previti

Questions referred

- Should the national authorities and courts, on the basis of the law of the European Union, refuse to apply the exemption pertaining to an intra-Community supply, the right to the deduction of VAT in respect of the purchase of goods which, after the purchase, were dispatched to another Member State, or the refund of VAT pursuant to the application of the second sentence of Article 28b(A)(2) of the Sixth Directive, ⁽¹⁾ when, based on objective data, it has been established that there has been VAT evasion in respect of the goods concerned, and that the taxable person knew, or should have known, that it had participated therein, if national law does not make provision for the refusal of the exemption, the deduction or the refund under those circumstances?
- If the previous question is answered in the affirmative, should the aforementioned exemption, deduction or refund also be refused if the VAT evasion occurred in another Member State (other than the Member State from which the goods were dispatched) and the taxable person was or should have been aware of the VAT evasion, while the taxable person in the Member State from which the goods were dispatched has met all the (formal) conditions which national statutory provisions impose on the exemption, the deduction or the refund, and it has always provided the tax authorities in that Member State with all the required information in respect of the goods, the dispatch and the persons acquiring the goods in the Member State of arrival of the goods?