

2. Orders Romania to pay the costs.

⁽¹⁾ OJ C 146, 4.5.2015.

Judgment of the Court (Fourth Chamber) of 21 July 2016 — Apple and Pear Australia Ltd, Star Fruits Diffusion v European Union Intellectual Property Office, Carolus C. BVBA

(Case C-226/15 P) ⁽¹⁾

(Appeal — EU trade mark — Application for EU word mark English pink — Opposition by the proprietor of the word mark PINK LADY and the figurative marks including the word elements ‘Pink Lady’ — Opposition dismissed — Decision of an EU trade mark court — Alteration — Res judicata)

(2016/C 343/09)

Language of the case: French

Parties

Appellants: Apple and Pear Australia Ltd, Star Fruits Diffusion (represented by: T. de Haan, avocat, and P. Péters, advocaat)

Other party to the proceedings: European Union Intellectual Property Office (represented by: J. Crespo Carrillo, Agent), Carolus C. BVBA

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders Apple and Pear Australia Ltd and Star Fruits Diffusion to pay the costs.

⁽¹⁾ OJ C 254, 3.8.2015.

Judgment of the Court (Tenth Chamber) of 20 July 2016 (request for a preliminary ruling from the Verwaltungsgericht Wien — Austria) — Hans Maschek v Magistratsdirektion der Stadt Wien — Personalstelle Wiener Stadtwerke

(Case C-341/15) ⁽¹⁾

(Reference for a preliminary ruling — Social policy — Directive 2003/88/EC — Article 7 — Right to paid annual — Retirement at the request of the party concerned — Worker failing to use up all his entitlement to annual paid leave before the termination of his work relations — National legislation excluding allowance in lieu of paid annual leave not taken — Sick leave — Public servants)

(2016/C 343/10)

Language of the case: German

Referring court

Verwaltungsgericht Wien

Parties to the main proceedings

Appellant: Hans Maschek

Respondent: Magistratsdirektion der Stadt Wien — Personalstelle Wiener Stadtwerke

Operative part of the judgment

Article 7(2) 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, must be interpreted:

- as precluding national legislation such as that at issue in the main proceedings, which deprives the worker, whose employment relationship was terminated following his request for retirement, of an allowance in lieu of paid annual leave not taken and who has not been able to use up his rights to paid annual leave before the end of that employment relationship;
- as meaning that a worker is entitled, on retirement, to an allowance in lieu of paid annual leave not taken because he was prevented from working by sickness;
- as meaning that a worker whose employment relationship has ended and who, pursuant to an agreement with his employer, while continuing to receive his salary, was required not to report to his place of work during a specified period preceding his retirement, is not entitled to an allowance in lieu of paid annual leave not taken during this period, unless he was not able to use up that entitlement due to illness;
- as meaning that it is, on the one hand, for the Member States to decide whether to grant workers additional paid leave in addition to the minimum annual paid leave of four weeks provided for in Article 7 of Directive 2003/88. In that case, the Member States may grant to a worker who, because of illness, could not use up all of his additional paid annual leave before the end of his employment relationship, an entitlement to an allowance in lieu of that additional period. It is, on the other hand, for the Member States to determine the conditions for granting that entitlement.

⁽¹⁾ OJ C 346, 19.10.2015.

Judgment of the Court (Seventh Chamber) of 21 July 2016 (requests for a preliminary ruling from the Raad van State — Belgium) — Hilde Orleans, Rudi Van Buel, Marina Apers (C-387/15) and Denis Malcorps, Myriam Rijssens, Guido Van De Walle (C-388/15) v Vlaams Gewest

(Joined Cases C-387/15 and C-388/15) ⁽¹⁾

(Reference for a preliminary ruling — Environment — Directive 92/43/EEC — Conservation of natural habitats — Special areas of conservation — Natura 2000 site ‘Scheldt and Durme estuary from the Dutch border to Ghent’ — Development of a port area — Assessment of the implications of a plan or project for a protected site — Occurrence of adverse effects — Prior but not yet completed development of an area of an equivalent type to the part destroyed — Completion subsequent to the assessment — Article 6(3) and (4))

(2016/C 343/11)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicants: Hilde Orleans, Rudi Van Buel, Marina Apers (C-387/15) and Denis Malcorps, Myriam Rijssens, Guido Van De Walle (C-388/15)

Defendant: Vlaams Gewest

Intervening party: Gemeentelijk Havenbedrijf Antwerpen