

Parties to the main proceedings

Applicant: C. King

Defendants: The Sash Window Workshop Ltd, Richard Dollar

Questions referred

- (1) If there is a dispute between a worker and employer as to whether the worker is entitled to annual leave with pay pursuant to article 7 of Directive 2003/88 ⁽¹⁾, is it compatible with EU law, and in particular the principle of effective remedy, if the worker has to take leave first before being able to establish whether he is entitled to be paid?
- (2) If the worker does not take all or some of the annual leave to which he is entitled in the leave year when any right should be exercised, in circumstances where he would have done so but for the fact that the employer refuses to pay him for any period of leave he takes, can the worker claim that he is prevented from exercising his right to paid leave such that the right carries over until he has the opportunity to exercise it?
- (3) If the right carries over, does it do so indefinitely or is there a limited period for exercising the carried-over right by analogy with the limitations imposed where the worker is unable to exercise the right to leave in the relevant leave year because of sickness?
- (4) If there is no statutory or contractual provision specifying a carry-over period, is the court obliged to impose a limit to the carry-over period in order to ensure that the application of the Regulations does not distort the purpose behind article 7?
- (5) If so, is a period of 18 months following the end of the holiday year in which the leave accrued compatible with the article 7 right?

⁽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 L 299, p. 9

**Request for a preliminary ruling from the Efeteio Athinon (Greece) lodged on 18 April 2016 —
European Commission v Dimos Zagoriou**

(Case C-217/16)

(2016/C 222/09)

Language of the case: Greek

Referring court

Efeteio Athinon (Greece)

Parties to the main proceedings

Appellant: European Commission

Respondent: Dimos Zagoriou

Questions referred

1. What is the nature of the acts of the European Commission when it exercises its powers pursuant to Regulations No 2052/88, ⁽¹⁾ No 4253/88 ⁽²⁾ and No 4256/88 ⁽³⁾ and, more specifically, are those acts of the Commission acts of public law and do they give rise to administrative disputes as to the substance in any event, in particular where the subject matter of the attachment by the European Commission of assets held by a third party is a private debt, whereas the initial debt for whose satisfaction enforcement is proceeded with derives from a legal relationship governed by public law which has arisen from the foregoing acts of the European Commission, or are they acts of private law and do they give rise to private disputes?
2. Having regard to the fact that, under Article 299 TFEU, enforcement of acts of the European Commission which impose a pecuniary obligation on persons other than Member States is to be governed by the rules of civil procedure in force in the State in the territory of which enforcement is proceeded with and that, under that article, the courts of the country concerned are to have jurisdiction over complaints that enforcement is being carried out in an irregular manner, how is the jurisdiction of the national courts over disputes which arise from such enforcement determined, when under national law those disputes are administrative disputes as to the substance, that is to say, when the underlying relationship is one of public law?
3. In the case of enforcement of acts of the European Commission which are adopted pursuant to Regulations No 2052/88, No 4253/88 and No 4256/88 and impose a pecuniary obligation on a person other than Member States, is the capacity to be made a defendant that is possessed by the person liable assessed on the basis of national law or of Community law?
4. When the person liable to discharge a pecuniary obligation stemming from an act of the European Commission adopted pursuant to Regulations No 2052/88, No 4253/88 and No 4258/88 is a community undertaking, which subsequently was wound up, does the community which owns that undertaking owe an obligation to discharge that pecuniary obligation to the European Commission under the foregoing regulations?

⁽¹⁾ OJ 1988 L 185, p. 9.

⁽²⁾ OJ 1988 L 374, p. 1.

⁽³⁾ OJ 1988 L 374, p. 25.

Appeal brought on 19 April 2016 by GFKL Financial Services GmbH, formerly GFKL Financial Services AG, against the judgment of the General Court (Ninth Chamber) of 4 February 2016 in Case T-620/11 GFKL Financial Services AG v European Commission

(Case C-219/16 P)

(2016/C 222/10)

Language of the case: German

Parties

Appellant: GFKL Financial Services GmbH, formerly GFKL Financial Services AG (represented by: Dr M Schweda, J. Eggers, Dr M. Knebelberger, Dr F. Loose, Rechtsanwälte)

Other parties to the proceedings: European Commission, Federal Republic of Germany

Form of order sought

The appellant claims that the Court should:

1. set aside the judgment of the General Court of the European Union (Ninth Chamber) of 4 February 2016 in Case T-620/11 in so far as that judgment dismissed the action as unfounded; and

annul Commission Decision of 26 January 2011 on State aid C 7/10 (ex CP 250/09 and NN 5/10) implemented by Germany — Scheme for the carry-forward of tax losses in the case of restructuring of companies in difficulty (Sanierungsklausel), ⁽¹⁾ document C(2011) 275;