Request for a preliminary ruling from the Arbeitsgericht Verden (Germany) lodged on 26 June 2017 — Torsten Hein v Albert Holzkamm GmbH & Co.

(Case C-385/17)

(2017/C 318/11)

Language of the case: German

Referring court

Arbeitsgericht Verden

Parties to the main proceedings

Applicant: Torsten Hein

Defendant: Albert Holzkamm GmbH & Co.

Questions referred

1. Are Article 31 of the Charter of Fundamental Rights of the European Union and Article 7(1) of Directive 2003/88/EC ([1]) of 4 November 2003 concerning certain aspects of the organisation of working time to be interpreted as precluding national legislation under which it may be provided in collective agreements that reductions in earnings occurring in the period of calculation as a result of short-time work affect the calculation of the payment for annual leave with the result that the worker receives a lower remuneration for annual leave for the duration of the period of annual leave of at least four weeks, or receives a lower allowance in lieu of leave after the employment relationship has ended, than he would receive if the calculation of the remuneration for annual leave were based on the average earnings which the worker would have received in the period of calculation without such reductions in earnings? If so, what is the maximum percentage, with reference to the worker's full average earnings, that a collectively agreed reduction, permitted by national legislation, of the remuneration for annual leave may have as a result of short-time work in the period of calculation in order for the interpretation of that national legislation to be regarded as in conformity with EU law?

2. If Question 1 is answered in the affirmative: Do the general principle of legal certainty laid down by EU law and the principle of non-retroactivity require that the possibility of relying on the interpretation which the Court places, in the preliminary ruling to be given in the present case, on Article 31 of the Charter of Fundamental Rights of the European Union and on Article 7(1) of Directive 2003/88/EC of 4 November 2003 concerning certain aspects of the organisation of working time be limited in time, with effect for all parties, because the highest national courts have previously ruled that the relevant national legislation and collectively agreed rules are not amenable to an interpretation in conformity with EU law? If the Court answers this question in the negative: Is it compatible with EU law if, on the basis of national law, the national courts grant protection of legitimate expectations to employers who have relied on the continued application of the case-law developed by the highest national courts, or is the grant of protection of legitimate expectations reserved for the Court of Justice of the European Union?

([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.

Action brought on 30 June 2017 — European Commission v United Kingdom of Great Britain and Northern Ireland

(Case C-391/17)

(2017/C 318/12)

Language of the case: English

Parties

Applicant: European Commission (represented by: L. Flynn, A. Caeiros, Agents)