

4. Article 19 of Directive 2009/16, as amended by Directive 2017/2110, must be interpreted as meaning that, in the event that it is established that ships which are, in practice, being systematically used for activities relating to the search for and rescue of persons in danger or distress at sea, despite having been classified and certified as cargo ships by a Member State which is the flag State, have been operated in a manner posing a danger to persons, property or the environment, the Member State which is the port State may not make the non-detention of those ships or the lifting of such a detention subject to the condition that those ships hold certificates appropriate to those activities and comply with all the corresponding requirements. By contrast, that State may impose predetermined corrective measures relating to safety, pollution prevention and on-board living and working conditions, provided that those corrective measures are justified by the presence of deficiencies which are clearly hazardous to safety, health or the environment and which make it impossible for a ship to sail under conditions capable of ensuring safety at sea. Such corrective measures must, in addition, be suitable, necessary, and proportionate to that end. Furthermore, the adoption and implementation of those measures by the port State must be the result of sincere cooperation between that State and the flag State, having due regard to the respective powers of those two States.

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(<sup>1</sup>) OJ C 98, 22.3.2021.

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**Judgment of the Court (Sixth Chamber) of 22 September 2022 (request for a preliminary ruling from the Bundesarbeitsgericht — Germany) — LB v TO**

(Case C-120/21) (<sup>1</sup>)

*(Reference for a preliminary ruling — Social policy — Protection of the safety and health of workers — Organisation of working time — Article 31(2) of the Charter of Fundamental Rights of the European Union — Directive 2003/88/EC — Article 7 — Right to paid annual leave — Allowance in lieu of leave not taken after the termination of the employment relationship — Three-year limitation period — Starting point — Adequate information provided to the worker)*

(2022/C 424/09)

Language of the case: German

**Referring court**

Bundesarbeitsgericht

**Parties to the main proceedings**

Appellant in the appeal on a point of law: LB

Respondent in the appeal on a point of law: TO

**Operative part of the judgment**

Article 7 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 and Article 31(2) of the Charter of Fundamental Rights of the European Union

must be interpreted as precluding national legislation under which the right to paid annual leave acquired by a worker in respect of a given reference period is time-barred after a period of three years which begins to run at the end of the year in which that right arose, where the employer has not actually put the worker in a position to exercise that right.

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(<sup>1</sup>) OJ C 182, 10.5.2021.