

(2) Orders the Czech Republic to pay the costs.

(¹) OJ C 143, 17.6.2006.

Order of the Court (Fifth Chamber) of 11 January 2007 (reference for a preliminary ruling of The Okresní soud v Českém Krumlově, Czech Republic) — Jan Vorel v Nemocnice Český Krumlov

(Case C-437/05) (¹)

(First subparagraph of Article 104(3) of the Rules of Procedure — Social Policy — Protection of the health and safety of workers — Directives 93/104/EC and 2003/88/EC — Concept of ‘working time’ — Periods of inactivity during on-call duty provided by a doctor at his place of work — Classification — Effect on the remuneration of the person concerned)

(2007/C 56/20)

Language of the case: Czech

Referring court

Okresní soud v Českém Krumlově (Český Krumlov District Court)

Parties

Applicant: Jan Vorel

Defendant: Nemocnice Český Krumlov (Český Krumlov Hospital)

Re:

Reference for a preliminary ruling — Okresní Soud v Českém Krumlově — Interpretation of Articles 2(1) and 18 of Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time (OJ 1993 L 307, p. 18) — Meaning of working time — National legislation regarding periods of inactivity during the on-call period of a doctor at his place of work as not constituting working time

Operative part of the order

1. Directive 93/104/EC of the Council of 23 November 1993 concerning certain aspects of the organisation of working time, as amended by Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000, and 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 should be interpreted as:

— precluding national legislation under which on-call duty performed by a doctor under a system where he is expected to

be physically present at the place of work, but in the course of which he does no actual work, is not treated as wholly constituting ‘working time’ within the meaning of the said directives;

— not preventing a Member State from applying legislation on the remuneration of workers and concerning on-call duties performed by them at the workplace which makes a distinction between the treatment of periods in the course of which work is actually done and those during which no actual work is done, provided that such a system wholly guarantees the practical effect of the rights conferred on workers by the said directives in order to ensure the effective protection of their health and safety.

(¹) OJ C 36, 11.2.2006.

Order of the Court of 9 January 2007 (reference for a preliminary ruling from the Finanzgericht München, Germany) — Juers Pharma Import-Export GmbH v Oberfinanzdirektion Nürnberg

(Case C-40/06) (¹)

(First subparagraph of Article 104(3) of the Rules of Procedure — Common Customs Tariff — Combined Nomenclature — Tariff classification — Capsules containing primarily melatonin — Medicaments)

(2007/C 56/21)

Language of the case: German

Referring court

Finanzgericht München

Parties in the main proceedings

Applicant: Juers Pharma Import-Export GmbH

Defendant: Oberfinanzdirektion Nürnberg

Re:

Reference for a preliminary ruling — Finanzgericht München — Interpretation of Commission Regulation (EC) No 1789/2003 of 11 September 2003 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2003 L 281, p. 1) — Heading 3004 (medicaments) and heading 2106 (food preparations) of the Combined Nomenclature — Classification of melatonin capsules put up as dietary supplements but which may be supplied only by pharmacies and on prescription — Twinlab Melatonin Caps