

Operative part of the judgment

In the event of a transfer within the meaning of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, of an undertaking belonging to a group to an undertaking outside that group, it is also possible to regard as a 'transferor', within the meaning of Article 2(1)(a) of that directive, the group company to which the employees were assigned on a permanent basis without however being linked to the latter by a contract of employment, even though there exists within that group an undertaking with which the employees concerned were linked by such a contract of employment.

(¹) OJ C 220, 12.9.2009, p. 21.

Judgment of the Court (Second Chamber) of 14 October 2010 (reference for a preliminary ruling from the Verwaltungsgericht Halle (Germany)) — Günter Fuß v Stadt Halle

(Case C-243/09) (¹)

(Social policy — Protection of the safety and health of workers — Directive 2003/88/EC — Organisation of working time — Fire fighters employed in the public sector — Operational service — Article 6(b) and Article 22(1)(b) — Maximum weekly working time — Refusal to work longer than that time — Compulsory transfer to another service — Direct effect — Consequence for national courts)

(2010/C 346/26)

Language of the case: German

Referring court

Verwaltungsgericht Halle

Parties to the main proceedings

Applicant: Günter Fuß

Defendant: Stadt Halle

Re:

Reference for a preliminary ruling — Verwaltungsgericht Halle — Interpretation of Article 22(1)(b) 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 (OJ 2003 L 299, p. 9) — National legislation providing, in breach of that directive, for working time of more than 48 hours during a seven-day period for officials working as on-call professional firefighters — Compulsory transfer of an official who refused to work such hours to a post at the same grade in the administration — Concept of 'detriment'

Operative part of the judgment

Article 6(b) 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 rules, such as those at issue in the main proceedings, which allow a public-sector employer to transfer compulsorily to another service a worker employed as a fire fighter in an operational service on the ground that that worker has requested compliance, within the latter service, with the maximum average weekly working time laid down in that provision. The fact that such a worker suffers no specific detriment by reason of that transfer, other than that resulting from the infringement of Article 6(b) of Directive 2003/88, is irrelevant in that regard.

(¹) OJ C 233, 26.9.2009.

Judgment of the Court (Fourth Chamber) of 21 October 2010 (reference for a preliminary ruling from the Cour constitutionnelle (Belgium)) — Execution of a European arrest warrant issued in respect of I.B.

(Case C-306/09) (¹)

(Police and judicial cooperation in criminal matters — Framework Decision 2002/584/JHA — European arrest warrant and the surrender procedures between Member States — Article 4 — Grounds for optional non-execution — Article 4(6) — Arrest warrant issued for the purposes of execution of a sentence — Article 5 — Guarantees to be provided by the issuing Member State — Article 5(1) — Sentence imposed in absentia — Article 5(3) — Arrest warrant issued for the purposes of criminal prosecution — Surrender subject to the condition that the requested person be returned to the Member State of execution — Joint application of Article 5(1) and Article 5(3) — Compatibility)

(2010/C 346/27)

Language of the case: French

Referring court

Cour constitutionnelle

Party to the main proceedings

I.B.

Re:

Reference for a preliminary ruling — Cour constitutionnelle (Belgium) — Interpretation of Articles 4(6) and 5(3) of Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ 2002 L 190, p. 1) and of Article 6(2) of the EU Treaty — Grounds for optional non-execution of the European arrest warrant and guarantees to be given by the issuing Member State — Possibility for the executing Member State to make the surrender of a person residing on its territory subject to the condition that that person, after having been heard in the issuing Member State, be returned to