

SUMMARY

ECJ 25 November 2021, case C-233/20 (job-medium), Paid Leave

WD - v - job-medium GmbH in liquidation, Austrian case

Summary

Directive 2003/88 precludes provisions which deny a worker an allowance in lieu for untaken leave when his employment relationship ends, even if the employee terminated it without good cause.

Question

Must Article 7 of Directive 2003/88, read in the light of Article 31(2) of the Charter, be interpreted as precluding a provision of national law under which no allowance in lieu of paid annual leave not taken is payable in respect of the current last year of employment, where the worker unilaterally terminates the employment relationship early without cause.

In the event that the first question is answered in the negative: to what extent and according to which criteria is it for the referring court to verify whether the worker was unable to take his or her paid leave?

Ruling

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, read in the light of Article 31(2) of the Charter of Fundamental Rights of the European Union must be interpreted as precluding a provision of national law under which no allowance is payable in lieu of paid annual leave not taken in respect of the current and last year of employment, where the worker unilaterally terminates the employment relationship early and without cause.

It is not necessary for the national court to verify whether the worker was unable to take the leave to which he or she was entitled.

Creator: European Court of Justice (ECJ)

Verdict at: 2021-11-25

Case number: C-233/20