

SUMMARY

ECJ 13 January 2022, case C-514/20 (Koch Personaldienstleistungen), Paid Leave

DS – v – Koch Personaldienstleistungen GmbH, German case

Summary

Periods of annual leave must be taken into account when calculating whether an employee reached the threshold to be entitled to overtime payments.

Question

Must Article 31(2) of the Charter and Article 7 of Directive 2003/88 be interpreted as precluding a provision in a collective labour agreement under which, in order to determine whether the threshold of hours worked granting entitlement to overtime pay is reached, the hours corresponding to the period of paid annual leave taken by the worker are not to be taken into account as hours worked?

Ruling

Article 7(1) 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 in a collective labour agreement under which, in order to determine whether the threshold of hours worked granting entitlement to overtime pay is reached, the hours corresponding to the period of paid annual leave taken by the worker are not to be taken into account as hours worked.

Creator: European Court of Justice (ECJ)

Verdict at: 2022-01-13

Case number: C-514/20