

SUMMARY

ECJ 27 April 2023, case C-192/22 (Bayerische Motoren Werke), Paid Leave

FI – v – Bayerische Motoren Werke AG, German case

Summary

Annual leave cannot lapse if the worker could not take the leave due to sickness, before he was exempted from work, even where it is not a long-term absence.

Question

Do Article 7 of Directive 2003/88 or Article 31(2) of the Charter preclude a rule of national law according to which days of paid annual leave acquired during the work phase of a progressive retirement scheme but not taken are likely to be forfeited because they cannot be taken during the work release phase?

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 rule of national law which provides that the right to paid annual leave acquired by a worker, by reason of his or her work in the context of a progressive retirement scheme, is to lapse at the end of the holiday year or at a later date, where the worker has been prevented from taking that leave before the work release phase due to illness, even where it is not a long-term absence.

Creator: European Court of Justice (ECJ)

Verdict at: 2023-04-27

Case number: C-192/22