

SUMMARY

ECJ 4 May 2023, joined cases C-529/21-536/21 and C-732/21-738/21 (Glavna direktsia „Pozharna bezopasnost i zashtita na naselenieto“ (Travail de nuit)), Working Time

15 employees – v – Glavna direktsia ‘Pozharna bezopasnost i zashtita na naselenieto’ kam Ministerstvo na vatreshnite raboti, Bulgarian case

Summary

The Working Time Directive also applies to public sector workers, such as firefighters, in so far as those workers carry out their activiteit under normal circumstances. Public sector workers may be subject to less favourable rules on night work than private sector workers, provided that the difference in treatment is based on an objective and reasonable criterion, i.e. relates to a permitted aim and is proportionate to that aim.

Questions

Must Article 1(3) of Directive 2003/88, read in conjunction with Article 2 of Directive 89/391, be interpreted as meaning that Directive 2003/88 applies to public sector workers, such as firefighters, who are regarded as night workers. For the purposes of appraising the equivalence of the appropriate protection and prevention services or facilities with regard to the safety and health of night workers and shift workers, as required by Article 12(b) of Directive 2003/88, is it necessary to take into account any differences that may exist between different categories of night workers in a Member State?

Must Article 12 of Directive 2003/88, read in the light of Article 20 of the Charter, must be

interpreted as precluding the normal, shorter length of night work fixed in national law for workers in the private sector from not applying to public sector workers, such as firefighters?

Ruling

Article 1(3) 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 conjunction with Article 2 of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work, must be interpreted as meaning that Directive 2003/88 applies to public sector workers, such as firefighters, who are considered to be night workers, in so far as those workers carry out their activities under normal circumstances.

Article 12 of Directive 2003/88, read in the light of Article 20 of the Charter of Fundamental Rights of the European Union, must be interpreted as not precluding the normal length of night work fixed at seven hours in the legislation of a Member State for workers in the private sector from not applying to public sector workers, such as firefighters, if, in so far as the categories of workers concerned are in a comparable situation, that difference in treatment is based on an objective and reasonable criterion, that is, if the difference relates to a legally permitted aim pursued by that legislation, and it is proportionate to that aim.

Creator: European Court of Justice (ECJ)

Verdict at: 2023-05-04

Case number: C-529/21-536/21 and C-732/21-738/21