

SUMMARY

ECJ 9 November 2023, case C-271/22-275/22 (Keolis Agen), Paid leave

XT, KD, BX, FH and NW – v – Keolis Agen SARL, French case

Summary

The fact that an employer is a private undertaking, holding a public service delegation, is irrelevant with regard to the right of a worker to paid annual leave. National legislation or national practice which allows requests for paid annual leave made less than 15 months after the end of the reference period and limited to entitlement accrued and not exercised, due to a long-term absence from work due to illness, during two consecutive reference periods to be granted, is not precluded.

Questions

Must Article 7 of Directive 2003/88 be interpreted as meaning that a worker may rely on the right to paid annual leave against his or her employer, even if the employer is a private undertaking holding a public service delegation?

How to define the length of the carry-over period applicable to the entitlement to paid annual leave, referred to in Article 7 of Directive 2003/88, in the case of a reference period equal to one year?

Must Artikel 7 of Directive 2003/88 be interpreted as precluding national legislation and/or a national practice which, in the absence of a national provision laying down an express temporal limit on the carry-over of entitlements to paid annual leave accrued and not exercised due to a long term absence form work due to illness, allows applications for paid annual leave made by a worker after the end of the reference period in which the entitlement to that leave arose to be granted?

Ruling

Article 31(2) of the Charter of Fundamental Rights and Article 7 of Directive 2003/88 must be interpreted as meaning that a worker may rely on the right to paid annual leave, enshrined in the former provision and given concrete expression by the latter, against his or her employer and the fact that the employer is a private undertaking, holding a public service delegation, is irrelevant in that regard.

Article 7 of Directive 2003/88 must be interpreted as not precluding national legislation and/or a national practice which, in the absence of a national provision laying down an express temporal limit on the carry-over of entitlements to paid annual leave accrued and not exercised due to a long term absence from work due to illness, allows requests for paid annual leave submitted by a worker less than 15 months after the end of the reference period in which the entitlement to that leave arose and limited to two consecutive reference periods to be granted.

Creator: European Court of Justice (ECJ)

Verdict at: 2023-11-09

Case number: C-271/22 - 275/22