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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.

ECJ 18 January 2022, case C-261/20 (Thelen Technopark Berlin), Other Forms of Free Movement

Thelen Technopark Berlin GmbH – v – MN, German case

Summary

It does not follow from EU law that a national court must disapply national provisions on minimum tariffs for architects and engineers which are contrary to Directive 2006/123, although this *can* follow from other national provisions. Moreover, the disadvantaged party can claim compensation based on state liability as the German implementation legislation is not in conformity with EU law.

Question

Is EU law to be interpreted as meaning that a national court, when hearing a dispute which is exclusively between private individuals, is required to disapply a piece of national legislation which, in breach of Article 15(1), (2)(g) and (3) of Directive 2006/123, sets minimum rates for fees for services provided by architects and engineers and which renders invalid agreements derogating from that legislation.

Ruling

EU law must be interpreted as meaning that a national court, when hearing a dispute which is exclusively between private individuals, is not required, solely on the basis of EU law, to disapply a piece of national legislation which, in breach of Article 15(1), (2)(g) and (3) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, sets minimum rates for fees for services provided by architects and engineers and which renders invalid agreements derogating from that legislation, without prejudice, however, to, first, the possibility for that court to disapply that legislation on the basis of domestic law in the context of such a dispute, and, second, the right of a party which has been harmed as a result of national law not being in conformity with EU law to claim compensation for the ensuing loss or damage sustained by that party.

ECJ 10 February 2022, case C-485/20 (HR Rail), Disability Discrimination

Employee – v – HR Rail SA, Belgian case

Summary

A disabled worker who is incapable of performing the essential duties of the post shall be reassigned to another suitable post, even if s/he is still in the probationary period, provided that the reassignment does not impose a disproportionate burden on the employer. The ECJ's summary is available on: https://curia.europa.eu/jcms/upload/docs/application/pdf/2022-02/cp220026en.pdf.

Question

Must Article 5 of Directive 2000/78 be interpreted as meaning that the concept of 'reasonable accommodation' for disabled persons, within the meaning of that article requires that a worker, including someone undertaking a traineeship following his or her recruitment, who, owing to his or her disability, has been declared incapable of performing the essential functions of the post that he or she occupies, be assigned to another position for which he or she has the necessary competence, capability and availability?

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