

ECJ 4 May 2023, joined cases C-529/21-C-536/21 and C-732/21-C-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 vatrešnite 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 activities 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

1. 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?
2. 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

1. 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.
2. 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.

ECJ 11 May 2023, case C-155/22 (Bezirkshauptmannschaft Lilienfeld), Miscellaneous, Work and Residence Permit

RE – v – Bezirkshauptmannschaft Lilienfeld, Arbeitsinspektorat NÖ Wald- und Mostviertel, Austrian case

Summary

A road transport undertaking cannot discharge its responsibility to comply with driving times and rest periods to another person, without national laws being able to hold that person’s behaviour against the applicable requirements for those undertakings. The ECJ’s summary is available on: <https://curia.europa.eu/jcms/upload/docs/application/pdf/2023-05/cp230077en.pdf>.

Questions

Must Article 22 of Regulation No 1071/2009, read in conjunction with Article 6(1) of that regulation, be interpreted as precluding a national law pursuant to which a person that incurs criminal responsibility for infringements committed within a road transport undertaking and whose conduct is taken into account for the purpose of assessing the good repute of that undertaking may designate a person as having the capacity of the agent responsible for compliance with the provisions of EU law concerning the driving time and rest periods of drivers, thereby transferring to that latter person the criminal responsibility for infringements of those provisions of EU law, where the national law does not permit the infringements imputed to that agent to be taken into account for the purpose of assessing whether that transport undertaking meets the requirement of good repute?

Ruling

Article 22 of Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC, as amended by Council Regulation (EU) No 517/2013 of 13 May 2013, read in conjunction with Article 6(1) of Regulation No 1071/2009, as amended, must be interpreted as precluding a national law pursuant to which a person that incurs criminal responsibility for infringements committed within a road transport undertaking and whose conduct is taken into account for the purpose of assessing the good repute of that undertaking may designate a person as an agent responsible for compliance with the provisions of EU law concerning the driving time and rest periods of drivers, thereby transferring to that person criminal responsibility for infringements of those provisions of EU law, where the national law does not permit the infringements imputed to that agent to be taken into account for the purpose of assessing whether that undertaking meets the requirement of good repute?

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ECJ 15 June 2023, case C-499/21 P, C-501/21 P and C-502/21 P (Shindler and Others v Council), Miscellaneous

Harry Shindler and Others – v – Council of the European Union, EU Case

Summary

British citizens have lost their rights as EU citizens as a result of Brexit. The ECJ's summary of the judgment is available on <https://curia.europa.eu/jcms/upload/docs/application/pdf/2023-06/cp230101en.pdf>.

Ruling

The Court (Eighth Chamber):

1. Dismisses the appeal
2. Orders [the claimants] to pay the costs.

ECJ 15 June 2023, case C-132/22 (Ministero dell'Istruzione, dell'Università e della Ricerca (Classements spéciaux)), Free Movement

BM, NP – v – Ministero dell'Istruzione, dell'Università e della Ricerca – MIUR, Italian case

Summary

A Member State may not exclude professional experience gained in other Member States from consideration in admitting candidates to a candidate list for the recruitment of staff in national public higher-education institutions, as this puts both foreign applicants as domestic applicants with foreign experience at a disadvantage.