when they are implementing EU law (*Florescu and Others*, C-258/14, para. 44 and the case law cited). According to Article 51(2), the Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task, or modify powers and tasks as defined in the Treaties.
Fundamental rights guaranteed in the legal order of the EU are applicable in all situations governed by EU law (*Bauer*, C-569/16, para. 52 and the case law cited). In this case, it is not apparent that the dispute concerns the interpretation or application of other EU provisions than Directive 2003/88 and Article 31(2) of the Charter. It must therefore be determined whether paid annual leave exceeding the minimum period of four weeks and the exclusion to carry over those days are to be regarded as implementing Directive 2003/88 for the purposes of Article 51(1) of the Charter, so that Article 31(2) applies.
The mere fact that domestic measures come within an area in which the EU has powers cannot bring those measures within the scope of EU law (*Julián Hernández and Others*, C-198/13, para. 36 and the case law cited). In the area of social policy, the EU and Member States have a shared competence (Article 4(2)(b) TFEU). As specified in Article 153(1) TFEU and recalled in recital 2 of Directive 2003/88, the Union is to support and complement Member States' activities in this area. The Directive simply aims to impose minimum requirements, but Member States can impose more stringent measures that are compatible with the Treaties, provided that those do not undermine the coherence of EU action (*IP*, C-2/97, paras. 35, 37 and 40).
Article 15 of Directive 2003/88 does not grant Member States an option of legislating by virtue of EU law, but merely recognizes their power to provide for more favourable provisions outside the framework of the Directive (by analogy: *Julián Hernández and Others*, C-198/13, para. 44). This situation is different, compared to situations where Member States have the freedom to choose between various ways of implementation, where they have a margin of discretion or where they adopt specific measures to achieve an objective (*N.S. and Others*, C-411/10, paras. 64–68; *C.K. and Others*, C-578/16 PPU, para. 53; *Milkova*, C-406/15, paras. 46, 47, 52 and 53 and the case law cited; *Florescu and Others*, C-258/14, para. 48).
Lastly, the Finnish rules at issue are not capable of affecting the minimum protection of Article 7(1) of Directive 2003/88 (by analogy: *Julián Hernández and Others*, C-198/13, para. 43) or any other rules.
It follows from all the foregoing that rights which exceed the minimum period of four weeks of leave as defined in Article 7(1) of Directive 2003/88 fall within the powers of Member States without being governed by the Directive or falling within its scope (by analogy: *Julián Hernández and Others*, C-198/13, para. 45). As EU law does not govern this situation, the latter also falls outside the scope of the Charter and therefore cannot be assessed in light of its provisions (*Julián Hernández and Others*, C-198/13, para. 35; *Miravitlles Ciurana and Others*, C-243/16, para. 34; *Consorzio Italian Management and Catania Multiservizi*, C-152/17, paras. 34–35).

Ruling

1. 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 must be interpreted as not precluding national rules or collective agreements which provide for the granting of days of paid annual leave which exceed the minimum period of four weeks laid down in that provision, and yet exclude the carrying over of those days of leave on the grounds of illness.
2. Article 31(2) of the Charter of Fundamental Rights of the European Union, read in conjunction with Article 51(1) thereof, must be interpreted as meaning that it is not intended to apply where such national rules or collective agreements exist.

ECJ 21 November 2019, joined cases C-203/18 and C-374/18, Working time, Miscellaneous

Deutsche Post AG, Klaus Leymann – v – Land Nordrhein-Westfalen; UPS Deutschland Inc. & Co. OHG, DPD Dynamic Parcel Distribution GmbH & Co. KG, Bundesverband Paket & Expresslogistik eV – v – Deutsche Post AG, German cases

Questions

1. Must a provision of national law, such as that at issue in the main proceedings, which reproduces verbatim the provisions of Article 13(1)(d) of Regulation No 561/2006, – in so far as it applies to vehicles with a maximum mass of more than 2.8 tonnes but not exceeding 3.5 tonnes and which, as a result, do not fall within the scope of Regulation No 561/2006 – be interpreted exclusively on the basis of EU law or whether a national court may apply criteria that differ from those of EU law in order to interpret that provision of domestic law?
2. Must Article 13(1)(d) of Regulation No 561/2006 be interpreted as meaning that the exception which it lays down covers only vehicles or combinations of vehicles that are used exclusively, during a particular transport operation, for the purpose of delivering items as part of the universal postal service, or

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whether that exception is applicable also when the vehicles or combinations of vehicles concerned are used predominantly or to a defined degree for the purpose of delivering items covered by the universal postal service?

3. Must Article 3(1) of Directive 97/67 be interpreted as meaning that the fact that add-on services – such as collection with or without a time slot, a minimum age check, cash on delivery, postage payment by recipient up to 31.5 kilograms, redirection service, instructions in the event of non-delivery and a preferred delivery day and time – are provided in connection with an item precludes that item from being regarded as being delivered within the scope of the 'universal service' under that provision and, therefore, as being an item delivered 'as part of the universal service' for the purposes of applying the exception provided for in Article 13(1)(d) of Regulation No 561/2006?

Ruling

1. A provision of national law, such as that at issue in the main proceedings, which reproduces verbatim the provisions of Article 13(1)(d) of Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85, as amended by Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014, must – in so far as it applies to vehicles with a maximum permissible mass of more than 2.8 tonnes but not exceeding 3.5 tonnes and which, as a result, do not fall within the scope of Regulation No 561/2006, as amended by Regulation No 165/2014 – be interpreted exclusively on the basis of EU law, as interpreted by the Court of Justice, where those provisions have, directly and unconditionally, been rendered applicable to such vehicles by national law.
2. Article 13(1)(d) of Regulation No 561/2006, as amended by Regulation No 165/2014, must be interpreted as meaning that the exception which it lays down covers only vehicles or combinations of vehicles that are used exclusively, during a particular transport operation, for the purpose of delivering items as part of the universal postal service.
3. Article 3(1) of Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service, as amended by Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008, must be interpreted as meaning that the fact that add-on services – such as collection with or without a time slot, a minimum age check, cash on delivery, postage payment by recipient up to 31.5 kilograms, redirection service, instructions in the event of non-delivery and a preferred delivery day and time – are provided in connection with an item precludes that item from being regarded as being delivered within the scope of the 'universal service' under that provision and, therefore, as being an item delivered 'as part of the universal service' for the purposes of applying the exception provided for in Article 13(1)(d) of Regulation No 561/2006, as amended by Regulation No 165/2014.

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