

the grant of one type of special leave arise during a working period. The purpose of that paid special leave is solely to enable workers to take time off from work in order to meet certain specific needs or obligations that require their personal presence. That leave is inextricably linked to working time as such, and consequently workers will not have recourse to such leave during weekly rest periods or periods of paid annual leave. Thus, the special leave cannot be regarded as comparable to sick leave.

The applicants in the main proceedings argue that, where the events justifying the grant of a type of paid special leave occur during a weekly rest period or a period of paid annual leave, those workers should be able to use that paid special leave at the time of a subsequent working period.

It is however untenable to claim that, on the ground that those weekly rest periods or periods of paid annual leave fall within the scope of Articles 5 and 7 of Directive 2003/88, those provisions oblige a Member State whose national rules provide for an entitlement to paid special leave to grant such special leave solely by reason of the occurrence of one of the events specified in those rules during one of those periods while excluding, consequently, the other conditions laid down by those rules governing the entitlement to and the granting of that leave. To create such an obligation would amount to ignoring the fact that the special leave, and the body of rules applicable to it, stand apart from the body of rules established by Directive 2003/88.

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## Ruling

Articles 5 and 7 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 being applicable to national rules providing for special leave on days when workers are required to work which do not allow those workers to claim that leave in so far as the needs and obligations met by that special leave arise during weekly rest periods or periods of paid annual leave that are the subject of those Articles.

## Other remarks

It appears, though this is subject to review by the referring court, that the special leave that is the subject of Article 46(I)(B) and (C) of the collective agreement of 13 July 2016 falls, in part, within the scope of the Framework Agreement and, therefore, of Directive 2010/18, since some of the types of leave are likely to correspond to those to which the Member States must ensure that workers are entitled, in accordance with clause 7.1 of that Framework Agreement. Therefore, it is apparent from the Court's settled case law that a period of leave guaranteed by EU law cannot affect the right

to take another period of leave guaranteed by EU law which has a different purpose from the former (*Dicu*, C-12/17, paragraph 37 and the case law cited). However, clause 7.1 of the Framework Agreement, interpreted in the light of clauses 1.1 and 8.1 thereof, does no more than provide that workers are to be entitled to time off from work on grounds of *force majeure* for urgent family reasons in cases of sickness or accident making the immediate presence of the worker indispensable. It follows that the minimum rights laid down in clause 7 cannot be regarded as comparable to leave, within the meaning of the latter mentioned case law.

## ECJ 11 June 2020, case C-114/19 P (Di Bernardo), Miscellaneous

European Commission – v – Danilo Di Bernardo, EU Case

### Summary

EC infringed its obligations to state reasons for not including an applicant on the reserve list for an open competition position.

### Order

The Court (First Chamber):

1. Dismisses the appeal;
2. Orders the European Commission to pay the costs.

## ECJ 25 June 2020, joined cases C-762/18 and C-37/19 (Varhoven kasatsionen sad na Republika Bulgaria), Paid Leave

QH – v – Varhoven kasatsionen sad na Republika Bulgaria (C-762/18), Bulgarian case and CV – v – Iccrea Banca SpA (C-37/19), Italian case

No English translation has been made available yet. For now, the official case information is available on: <https://eur-lex.europa.eu/legal-content/EN/TXT/?>