

Case C-217/20, Paid Leave

XXXX – v – Staatssecretaris van Financiën, reference lodged by the Rechtbank Overijssel (Netherlands) on 25 May 2020

1. Must Article 17(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 be interpreted as meaning that a worker does not lose his remuneration, or part thereof, because he exercises his right to annual leave? Or should that provision be interpreted as meaning that a worker retains his remuneration while exercising his right to annual leave, irrespective of the reason for not working during the leave period?
2. Must Article 7(1) of Directive 2003/88 be interpreted as precluding national provisions and practices whereby a worker who is incapacitated for work due to illness, when taking his annual leave, retains his remuneration at the level it was immediately prior to his taking annual leave, even if, on account of the long duration of his incapacity for work, that remuneration is lower than that paid in the event of full fitness for work?
3. Must the entitlement of every worker to paid annual leave under Article 7 of Directive 2003/88 and under settled EU case-law be interpreted as meaning that reducing that remuneration during leave taken during incapacity for work runs counter to that entitlement?

This issue also features this case as a case report (2020/41 *Holiday pay during sickness: preliminary questions asked (NL)*).

Case C-218/20, Private International Law, Applicable Law

Sindicatul Lucrătorilor din Transporturi, TD – v – SC Samidani Trans SRL, reference lodged by the Tribunalul Mureş (Romania) on 27 May 2020

1. Interpretation of Article 8 of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I): does the choice of law applicable to an individual employment contract exclude the application of the law of the country in which the employee has habitually carried out his or her work or does the fact that a choice of law has

been made exclude the application of the second sentence of Article 8(1) of that regulation?

2. Interpretation of Article 8 of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I): is the minimum wage applicable in the country in which the employee has habitually carried out his or her work a right that falls within the scope of ‘provisions that cannot be derogated from by agreement under the law that, in the absence of choice, would have been applicable’, within the meaning of the second sentence of Article 8(1) of the regulation?
3. Interpretation of Article 3 of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I): does the specification, in an individual employment contract, of the provisions of the Romanian Labour Code equate to a choice of Romanian law, in so far as, in Romania, it is well-known that the employer predetermines the content of the individual employment contract?

Case C-220/20, Miscellaneous

XX – v – OO, reference lodged by the Ufficio del Giudice di Pace di Lanciano (Italy) on 28 May 2020

Do Articles 2, 4(3), 6(1) and 9 of the Treaty on [European] Union and Articles 67(1) and (4), 81 and 82 of the Treaty on the Functioning of the European Union, in conjunction with Articles 1, 6, 20, 21, 31, 34, 45 and 47 of the Charter of Fundamental Rights of the European Union, preclude national provisions such as Articles 42, 83 and 87 of Decree Law No 18 of 17 March 2020, the decision of the Council of Ministers of 31 January 2020 declaring a state of national health emergency for six months until 31 July 2020 and Articles 14 and 263 of Decree Law No 34 of 19 May 2020 extending the national state of emergency for Covid-19 and the paralysis of civil and criminal justice and of the administrative work of Italian courts until 31 January 2021, taken together, in so far as they undermine the independence of the referring court and infringe the principle of due process as well as the connected rights to personal dignity, liberty and security, equality before the law, non-discrimination, fair and just working conditions, access to social security benefits and freedom of movement and of residence?