

within the EEA or to or from third countries if the employment agreement is established under and governed by the national law of an EEA State.

2. No assessment of the intensity of the work performed while travelling is required.

ECJ 2 September 2021, case C-350/20 (INPS en de maternité pour les titulaires de permis unique), Social Insurance, Work and Residence Permit

OD and Others – v – Istituto nazionale della
previdenza sociale (INPS)

Summary

Third-country nationals with a single work permit obtained in Italy are entitled to childbirth and maternity allowances.

Question

Must Article 12(1)(e) of Directive 2011/98 be interpreted as precluding national legislation which excludes the third-country nationals referred to in Article 3(1)(b) and (c) of that directive from entitlement to a childbirth allowance and a maternity allowance provided for by that legislation?

Ruling

Article 12(1)(e) of Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State must be interpreted as precluding national legislation which excludes the third-country nationals referred to in Article 3(1)(b) and (c) of that directive from entitlement to a childbirth allowance and a maternity allowance provided for by that legislation.

ECJ 9 September 2021, case C-107/19 (Dopravní podnik hl. m. Prahy), Working Time

XR – v – Dopravní podnik hl. m. Prahy, akciová
společnost, Czech case

Summary

A stand-by shift with a required response within two minutes makes a break qualify as working time.

Questions

1. Must Article 2 of Directive 2003/88 must be interpreted as meaning that the break granted to a worker during his or her daily working time, during which the worker must be ready to respond to a call-out within a time limit of two minutes if necessary, must be classified as ‘working time’ or as a ‘rest period’, within the meaning of that provision, and whether the occasional and unpredictable nature and the frequency of call-outs during those breaks have a bearing on that classification.
2. Must the principle of primacy of EU law be interpreted as precluding a national court, ruling following the setting aside of its decision by a higher court, from being bound, in accordance with national procedural law, by the legal rulings of that higher court, where those rulings are not compatible with EU law.

Ruling

1. Article 2 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 times must be interpreted as meaning that the break granted to a worker during his or her daily working time, during which the worker must be ready to respond to a call-out within a time limit of two minutes if necessary, constitutes ‘working time’ within the meaning of that provision, where it is apparent from an overall assessment of all the relevant circumstances that the limitations imposed on that worker are such as to affect objectively and very significantly the worker’s ability to manage freely the time during which his or her professional services are not required and to devote that time to his or her own interests.