Ruling

Article 24 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC must be interpreted as not precluding the legislation of a host Member State which excludes from social assistance economically inactive Union citizens who do not have sufficient resources and to whom that State has granted a temporary right of residence, where those benefits are guaranteed to nationals of the Member State concerned who are in the same situation.
However, provided that a Union citizen resides legally, on the basis of national law, in the territory of a Member State other than that of which he or she is a national, the national authorities empowered to grant social assistance are required to check that a refusal to grant such benefits based on that legislation does not expose that citizen, and the children for which he or she is responsible, to an actual and current risk of violation of their fundamental rights, as enshrined in Articles 1, 7 and 24 of the Charter of Fundamental Rights of the European Union. Where that citizen does not have any resources to provide for his or her own needs and those of his or her children and is isolated, those authorities must ensure that, in the event of a refusal to grant social assistance, that citizen may nevertheless live with his or her children in dignified conditions. In the context of that examination, those authorities may take into account all means of assistance provided for by national law, from which the citizen concerned and her children are actually entitled to benefit.

ECJ 15 July 2021, case C-851/19 P (DK/EEAS), Miscellaneous

DK – v – European External Action Service (EEAS), EU Case

Summary

Internal EU Case. Appeal against disciplinary pension deduction dismissed.

Order

The Court (Second Chamber):
1. Dismisses the appeal;
2. Orders DK to pay the costs.

EFTA 15 July 2021, case E-11/20 (Eyjólfur Orri Sverrisson v The Icelandic State), Working Time

Eyjólfur Orri Sverrisson – v – The Islandic State, Islandic Case

Summary

Necessary travel time outside working hours constitutes working time.

Questions

1. Does time spent travelling to a location other than the worker's fixed or habitual place of attendance, in order to carry out his activity or duties in that other location, as required by his employer, constitutes working time within the meaning of Article 2(1) of the Directive, in particular, when such time spent travelling falls outside his standard working hours?
2. Is it material that the worker's journey to a location other than his fixed or habitual place of attendance may require domestic or international travel, including outside the territory of the EEA States?
3. Is the work undertaken by the worker, if any, during the worker's journey is of relevance?

Ruling

It is appropriate to answer the referring court's questions together.
1. The necessary time spent travelling, outside normal working hours, by a worker, such as the plaintiff in the main proceedings, to a location other than his fixed or habitual place of attendance in order to carry out his activity or duties in that other location, as required by his employer, constitutes "working time" within the meaning of Article 2(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. It is immaterial whether that journey is made entirely

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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.

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