4. *Dismisses the appeals in Cases C-623/16 P and C-624/16 P;*

5. *Orders Scuola Elementare Maria Montessori Srl to bear half of its own costs incurred in connection with the appeal in Case C-622/16 P and to pay two-thirds of the European Commission's costs and bear two-thirds of its own costs in connection with the action before the General Court of the European Union in Case T-220/13;*

6. *Orders the European Commission, as regards its own costs, to bear one-third of the costs in connection with the action before the General Court of the European Union in Case T-220/13 and to bear the costs in connection with the appeals in Cases C-622/16 P to C-624/16 P and, as regards the costs of Scuola Elementare Maria Montessori Srl, to pay one-third of the costs in connection with the action before the General Court of the European Union in Case T-220/13, to pay half the costs in connection with the appeal in Case C-622/16 P, and to pay the costs incurred in Case C-623/16 P;*

7. *Orders the Italian Republic to bear its own costs in Cases C-622/16 P to C-624/16 P.*

([1]) OJ C 38, 6.2.2017.

Judgment of the Court (Grand Chamber) of 6 November 2018 (request for a preliminary ruling from the Bundesarbeitsgericht — Germany) — Max-Planck-Gesellschaft zur Förderung der Wissenschaften e.V. v Tetsuji Shimizu

(Case C-684/16) ([1])

(Reference for a preliminary ruling — Social policy — Organisation of working time — Directive 2003/88/EC — Article 7 — Right to paid annual leave — National legislation providing for the loss of annual leave not taken and of the allowance in lieu thereof where an application for leave has not been made by the worker prior to the termination of the employment relationship — Directive 2003/88/EC — Article 7 — Obligation to interpret national law in conformity with EU law — Charter of Fundamental Rights of the European Union — Article 31(2) — Whether it may be relied upon in a dispute between individuals)

(2019/C 16/05)

Language of the case: German

Referring court

Bundesarbeitsgericht

Parties to the main proceedings

Applicant: Max-Planck-Gesellschaft zur Förderung der Wissenschaften e.V.

Defendant: Tetsuji Shimizu

Operative part of the judgment

1. *Article 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 and of Article 31(2) of the Charter of Fundamental Rights of the European Union must be interpreted as precluding national legislation such as that at issue in the main proceedings, under which, in the event that the worker did not ask to exercise his right to paid annual leave during the reference period concerned, that worker loses, at the end of that period — automatically and without prior verification of whether the employer had in fact enabled him to exercise that right, in particular through the provision of sufficient information — the days of paid annual leave acquired under those provisions in respect of that period, and, accordingly, his right to an allowance in lieu of paid annual leave not taken in the event that the employment relationship is terminated. It is, in that regard, for the referring court to determine, taking into consideration the whole body of domestic law and applying the interpretative methods recognised by it, whether it can arrive at an interpretation of that right capable of ensuring the full effectiveness of EU law.*

2. *In the event that it is impossible to interpret national legislation such as that at issue in the main proceedings in a manner consistent with Article 7 of Directive 2003/88 and Article 31(2) of the Charter of Fundamental Rights, it follows from the latter provision that a national court hearing a dispute between a worker and his former employer who is a private individual must disapply the national legislation and ensure that, should the employer not be able to show that it has exercised all due diligence in enabling the worker actually to take the paid annual leave to which he is entitled under EU law, the worker cannot be deprived of his acquired rights to that paid annual leave or, correspondingly, and in the event of the termination of the employment relationship, to the allowance in lieu of leave not taken which must be paid, in that case, directly by the employer concerned.*

([1]) OJ C 104, 3.4.2017.

Judgment of the Court (Third Chamber) of 14 November 2018 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — Danieli & C. Officine Meccaniche SpA and Others v Regionale Geschäftsstelle Leoben des Arbeitsmarktservice

(Case C-18/17) ([1])

(Reference for a preliminary ruling — Accession of new Member States — Republic of Croatia — Transitional measures — Freedom to provide services — Directive 96/71/EC — Posting of workers — Posting of Croatian and third-country nationals to Austria through the intermediary of an undertaking established in Italy)

(2019/C 16/06)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellants: Danieli & C. Officine Meccaniche SpA, Dragan Panic, Ivan Arnautov, Jakov Mandic, Miroslav Brnjac, Nicolai Dorassevitch, Alen Mihovic

Respondent: Regionale Geschäftsstelle Leoben des Arbeitsmarktservice

Operative part of the judgment

1. *Articles 56 and 57 TFEU, together with Chapter 2, paragraph 2, of Annex V to the Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community must be interpreted as meaning that a Member State is entitled to restrict, by the requirement of a work permit, the posting of Croatian workers who are employed by an undertaking which has its registered office in Croatia, when the posting of those workers takes place through their hiring-out, within the meaning of Article 1(3)(c) of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, to an undertaking established in another Member State for the purposes of the provision of services in the first of those Member States by the latter undertaking.*

2. *Articles 56 and 57 TFEU must be interpreted as meaning that a Member State is not entitled to require that third-country nationals, hired out to an undertaking established in another Member State, by another undertaking which is also established in that other Member State, for the purposes of providing a service in the first of those Member States, must have a work permit.*

([1]) OJ C 144, 8.5.2017.