

## **HOLIDAY PAY AND PUBLIC HOLIDAY PAY\***

In ADJ-15102 the employee in this case brought a claim against the employer for Public Holiday Pay. The Adjudication Officer in this case upheld the complaint. An award of €500 was made.

The Adjudication Officer in this case stated that the Von Colson & Kamann principles apply. We would not necessarily agree with this view. The Von Colson & Kamann principles would certainly apply in relation to Holiday pay. In relation to Public Holiday pay, this is not an issue covered by the Directive and therefore in our opinion the Von Colson & Kamann principles do not apply.

An Adjudication Officer in a case under a claim for Public Holiday pay is still entitled to award up to 2 years' wages for a breach, but we disagree with the view that they must apply the Von Colson & Kamann principles.

When, however, you look at case ADJ-7697, being a case where an employee was not paid their Holiday pay, the Adjudication Officer in this case simply awarded the economic loss. As this is a claim for Holiday pay under the Act and as Holiday pay is a specific right protected by the Directive, in this case the Adjudication Officer should have, in our opinion, looked at the Von Colson & Kamann principles in setting compensation on top of the financial loss.

The issue of Holiday pay is a fundamental right. This is guaranteed by the Directive and by the Charter. The CJEU has recently ruled on this issue again and confirmed that it is a fundamental right. In those circumstances in our opinion the Adjudication Officer should have applied the Von Colson & Kamann principles and award the compensation on top of the economic loss.

***\*Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.***

***\*\*In contentious cases, a solicitor may not charge fees as a proportion or percentage of any award or settlement.***