

## SUMMARY

# **ECJ 16 July 2020, Case C-658/18 (Governo della Repubblica italiana (Statut des juges de paix italiens)), Employment Status, Paid Leave, Fixed- Term Work**

## ***UX - v - Governo della Repubblica italiana, Italian case***

### **Summary**

Magistrates who perform real and actual duties are entitled to paid leave and can be deemed to be fixed-term workers within the scope of Clause 2(1) of Directive 1999/70.

### **Questions**

Must Article 267 TFEU be interpreted as meaning that the giudice di pace (magistrate) falls within the concept of a 'court or tribunal of a Member State' within the meaning of that article?

Must Article 7(1) of Directive 2003/88 and Article 31(2) of the Charter be interpreted as meaning that a magistrate who carries out his or her duties as a principal activity and who receives compensation linked to the services performed and compensation for each month of actual service may fall within the concept of 'worker' within the meaning of those provisions?

Must clause 2(1) of the Framework Agreement be interpreted as meaning that a magistrate appointed for a limited period, who carries out his or her duties as a principal activity and who receives compensation linked to the services performed and compensation for each month of actual service, falls within the concept of 'fixed-term worker' within the meaning of that provision?

Must clause 4(1) of the Framework Agreement be interpreted as precluding national

legislation which does not provide for an entitlement on the part of magistrates to 30 days' paid annual leave, such as that provided for ordinary judges, where those magistrates fall within the concept of 'fixed-term workers' within the meaning of clause 2(1) of that framework agreement?

## **Ruling**

Article 267 TFEU must be interpreted as meaning that the giudice di pace (magistrate, Italy) falls within the concept of 'court or tribunal of a Member State' within the meaning of that article.

Article 7(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 and Article 31(2) of the Charter of Fundamental Rights of the European Union must be interpreted as meaning that a magistrate who, in the context of his or her duties, performs real and genuine services which are neither purely marginal nor ancillary, and for which he or she receives compensation representing remuneration, may fall within the concept of 'worker' within the meaning of those provisions, which it is for the referring court to verify.

Clause 2(1) of the Framework agreement on fixed-term work concluded on 18 March 1999, which is annexed to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, must be interpreted as meaning that the concept of 'fixed-term worker' in that provision may encompass a magistrate appointed for a limited period, who, in the context of his or her duties, performs real and genuine services which are neither purely marginal nor ancillary, and for which he or she receives compensation representing remuneration, which it is for the referring court to verify.

Clause 4(1) of the Framework agreement on fixed-term work concluded on 18 March 1999, which is annexed to Directive 1999/70, must be interpreted as precluding national legislation which does not provide for an entitlement on the part of magistrates to 30 days' paid annual leave, such as that provided for ordinary judges, where those magistrates fall within the concept of 'fixed-term workers' within the meaning of clause 2(1) of that framework agreement, and are in a situation comparable to that of ordinary judges, unless such a difference in treatment is justified by the differences in the qualifications required and the nature of the duties undertaken by those judges, which it is for the referring court to verify.

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**Creator:** European Court of Justice (ECJ)

**Verdict at:** 2020-07-16

**Case number:** C-658/18