

SUMMARY

ECJ 14 October 2020, case C-681/18 (KG (Missions successives dans le cadre du travail intérimaire)), Temporary Agency Work

JH - v - KG, Italian case

Summary

Article 5(5) of Directive 2008/104 does not impose specific measures on Member States, but it does require that they take certain measures to reach its aim.

Question

Must the first sentence of Article 5(5) of Directive 2008/104 be interpreted as precluding national legislation which does not limit the number of successive assignments that the same temporary agency worker may carry out at the same user undertaking and does not make the lawfulness of the use of temporary agency work subject to the prerequisite that it must be justified by technical, production, organisation or replacement-related reasons?

Ruling

The first sentence of Article 5(5) of Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work must be interpreted as not precluding national legislation which does not limit the number of successive assignments that the same temporary agency worker may fulfil at the same user undertaking and does not make the lawfulness of the use of temporary agency work subject to the prerequisite that it must be justified by technical, production, organisation or replacement-related reasons. On the other hand, that provision must be interpreted as precluding a Member State from taking no measures at all to preserve the temporary nature of temporary agency work and as precluding national legislation which does not lay down any measure to prevent successive

assignments of the same temporary agency worker to the same user undertaking in order to circumvent the provisions of Directive 2008/104 as a whole.

Creator: European Court of Justice (ECJ)

Verdict at: 2020-10-14

Case number: C-681/18