

SUMMARY

ECJ 27 June 2024, C-41/23 (Peigli), fixed-term work.

AV, BT, CV, DW - v - Ministero della Giustizia, Italian case.

Summary

The ECJ delivers a judgment on the equal treatment and the improper use of fixed-term contracts of honorary members of the judiciary. Honorary members of the judiciary may not be treated unequally from ordinary members of the judiciary in a comparable situation. Furthermore, the fixed-term contract of honorary members of the judiciary cannot be renewed successively without there being any national law providing for effective and dissuasive penalties or for conversion into a contract of indefinite duration.

Questions

Must Article 7 of Directive 2003/88 and Clause 4 of the framework agreement on fixed-term work be interpreted as precluding national legislation which, in contrast to what it provides in respect of ordinary members of the judiciary, does not give honorary members of the judiciary any entitlement to remuneration during the holiday period when judicial activity is suspended, or to the benefit of compulsory social security and insurance protection against workplace accidents and illnesses?

Must Clause 5 of the framework agreement on fixed-term work be interpreted as precluding national legislation under which the employment relationship of honorary members of the judiciary may be renewed successively without there being any provision, in order to limit abuse of such renewals, for effective and dissuasive penalties or for the conversion of the employment relationship of those members of the judiciary into an employment relationship of indefinite duration?

Ruling

Article 7 of Directive 2003/88 and Clause 4 of the Framework agreement on fixed-term work must be interpreted as precluding national legislation which, in contrast to what it provides for ordinary members of the judiciary, does not give honorary members of the judiciary in a comparable situation any entitlement to remuneration during the holiday period when judicial activity is suspended, or to the benefit of compulsory social security and insurance protection against workplace accidents and illnesses.

Clause 5(1) of the framework agreement on fixed-term work must be interpreted as precluding national legislation under which the employment relationship of honorary members of the judiciary may be renewed successively without there being any provision, in order to limit abuse of such renewals, for effective and dissuasive penalties or for the conversion of the employment relationship of those members of the judiciary into an employment relationship of indefinite duration.

Creator: European Court of Justice (ECJ)

Verdict at: 2024-06-27

Case number: C-41/23