

## SUMMARY

# **ECJ 27 November 2025, Case C-356/24 (Kärntner Landesregierung), free movement**

## ***A.B. - v - Kärntner Landesregierung, Austrian case***

### **Summary**

National legislation excluding the consideration of previous periods of equivalent service completed in another Member State is precluded by Article 45(1) TFEU.

### **Questions**

1. Must Article 45(2) TFEU and Article 7(1) of Regulation No 492/2011 be interpreted as precluding the regulations of a Member State under which periods of equivalent service completed by a person in another EEA State before that person entered into service as a civil servant in the first Member State and which were not previously taken into account for the purposes of his or her salary classification, are retroactive when the situation of that civil servant with regard to the salary scale results from advancement based on seniority and not from promotion granted by virtue of a decision falling within the discretionary power of the administration, while such consideration is not provided for for previous periods of equivalent service completed in the private sector and on the national territory?
2. Must Article 45(1) TFEU be interpreted as precluding the legislation of a Member State under which periods of equivalent service completed by a person in another EEA State before that person entered into service as a civil servant in the first Member State and which have not previously been taken into account for the purposes of his or her salary classification must be taken into account retroactively where the situation of that civil servant with regard to the salary scale results from advancement based on seniority and not from promotion granted by virtue of a decision falling within the discretionary power of the administration?

3. Must Articles 1, 2 and 6 of Directive 2000/78, read in conjunction with Article 21 of the Charter, be interpreted as precluding the legislation of a Member State under which, first, periods of equivalent service completed by a person in another Member State before that person entered into service as a civil servant in that first Member State cannot be taken into account for the purposes of his or her advancement where that civil servant has been promoted by virtue of a decision falling within the discretionary power of the administration and, secondly, such a promotion can, in principle, only take place after several years of service, calculated from the reference date for the advancement?

### **Ruling**

1. Article 45(2) TFEU and Article 7(1) of Regulation No 492/2011 must be interpreted as not precluding the legislation of a Member State under which periods of equivalent service completed by a person in another State of the European Economic Area before that person entered into service as a civil servant in the first Member State and which were not previously taken into account for the purposes of his or her salary classification, are taken into account retroactively when the situation of that civil servant with regard to the salary scale results from advancement based on seniority and not from promotion granted by virtue of a decision falling within the discretionary power of the administration, while such consideration is not provided for for previous periods of equivalent service completed in the private sector and on the national territory.

2. Article 45(1) TFEU must be interpreted as precluding legislation of a Member State under which periods of equivalent service completed by a person in another State of the European Economic Area before that person entered into service as a civil servant in the first Member State and which have not previously been taken into account for the purposes of his or her salary classification must be taken into account retroactively where the situation of that civil servant with regard to the salary scale results from advancement based on seniority and not from promotion granted by virtue of a decision falling within the discretionary power of the administration.

3. Articles 1, 2 and 6 of Directive 2000/78, read in conjunction with Article 21 of the Charter, must be interpreted as not precluding the legislation of a Member State under which, first, periods of equivalent service completed by a person in another Member State before that person entered into service as a civil servant in that first Member State cannot be taken into account for the purposes of promotion where that civil servant has been promoted by virtue of a decision falling within the discretionary power of the administration and, secondly, such promotion can, in principle, take place only after several years of service, calculated from the reference date for advancement, provided that, first, the number of years of service to be

completed before being eligible for promotion is not such that only older civil servants would be concerned and, secondly, the award of a promotion also depends on other criteria, unrelated to any consideration of age.

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

**Verdict at:** 2025-11-27

**Case number:** C-356/24