SUMMARY

ECJ 26 November 2026, Case C-557/25 (A. J. - v - Tribunalul Suceava, Înalta Curte de Casație şi Justiției)

A. J. v Tribunalul Suceava, Înalta Curte de Casație şi Justiție, Romanian case

Summary

A Romanian judicial assistant claimed a seniority-based pay increase after successive renewals of her five-year appointment took her beyond five years of service. Romanian law capped the seniority counted for judicial assistants at five years, while permanent specialist staff in the same judicial service could receive increases for longer service. The ECJ held that the increase was an employment condition under Clause 4 of the Framework Agreement on fixed-term work, annexed to Directive 1999/70/EC, and that the cap was permissible if the two groups did not perform the same or similar work. The differences between the assistants' duties and those of the proposed permanent comparators suggested that the roles were not comparable, subject to verification by the referring court.

Questions

Must a national court give full effect to the Framework Agreement by disapplying conflicting national legislation of its own motion, including legislation adopted subsequently, without requesting or awaiting its repeal?
Can the concept of 'employment conditions' in Clause 4(1) cover a fixed-term worker's claim to a seniority-based pay increase or bonus that national law reserves for permanent workers?
Does Clause 4(1) preclude a difference in access to the pay increase between fixed-term and permanent workers where the sole justification is that national legislation provides for it?
Does Clause 4(1) require national courts to protect the individual rights of fixed-term workers where national legislation directly gives rise to discrimination or unequal pay, particularly

within the same public service?

Ruling

The questions are answered jointly. Clause 4 permits national legislation to cap at five years the seniority counted for a pay increase for fixed-term specialist judicial staff, even where permanent specialist staff in the same judicial service face no equivalent cap, provided the two groups do not perform the same or similar work. The Court treated the increase as an employment condition and found that the cap placed the judicial assistants at a disadvantage. Comparability depended on factors such as the nature of the work, training requirements and working conditions. Judicial assistants had a consultative vote in deliberations, judges had the deciding vote, and the administrative staff treated as equivalent to judges and prosecutors performed exclusively administrative duties. These differences suggested that the roles were not comparable. The referring court retained responsibility for that assessment, and the ECJ did not examine whether objective grounds could justify the cap.

Creator: Hof van Justitie van de Europese Unie
Verdict at: 2026-11-26
Case number: ECLI:EU:C:2026:1033 / C-680/25