

## SUMMARY

# Case C-193/17. Fundamental rights

Is EU law, in particular Article 21 of the Charter of Fundamental Rights, in conjunction with Articles 1 and 2(2)(a) of Directive 2000/78/EC, to be interpreted as precluding, in a dispute between an employee and an employer in the context of a private employment relationship, a national rule under which Good Friday is also a holiday, with an uninterrupted rest period of at least 24 hours, only for members of the Evangelical Churches of the Augsburg and Helvetic Confessions, the Old Catholic Church and the United Methodist Church, and if an employee [belonging to one of those churches] works, despite that day being a holiday, he has, in addition to the entitlement to payment for the work not requiring to be performed as a result of the day being a holiday, also an entitlement to payment for the work actually performed, whereas other employees, who are not members of those churches, do not have any such entitlement?

Is EU law, in particular Article 21 of the Charter of Fundamental Rights, in conjunction with Article 2(5) of Directive 2000/78/EC, to be interpreted as meaning that the national legislation referred to in the first question, which – as measured against the total population and the membership, on the part of the majority of the population, of the Roman Catholic Church – grants rights and entitlements to only a relatively small group of members of certain (other) churches, is not affected by that directive because it concerns a measure that in a democratic society is necessary to ensure the protection of the rights and freedoms of others, particularly the right freely to practise a religion? Is EU law, in particular Article 21 of the Charter of Fundamental Rights, in conjunction with Article 7(1) of Directive 2000/78/EC, to be interpreted as meaning that the national legislation referred to in the first question is a positive and specific measure in favour of the members of the churches mentioned in the first question which is designed to guarantee their full equality in working life, to prevent or offset disadvantages to those members due to religion, if they are thereby granted the same right to practise a religion during working hours on what is an important holiday for that religion, such as otherwise exists for the majority of employees in accordance with a separate provision of national law, because generally no work is performed on the holidays for the religion that is

observed by the majority of employees?

If it is found that there is discrimination within the meaning of Article 2(2)(a) of Directive 2000/78/EC: Is EU law, in particular Article 21 of the Charter of Fundamental Rights, in conjunction with Articles 1, 2(2)(a) and 7(1) of Directive 2000/78/EC, to be interpreted as meaning that, so long as the legislature has not created a non-discriminatory legal situation, a private employer is required to grant the rights and entitlements set out in the first question in respect of Good Friday to all employees, irrespective of their religious affiliation, or must the national provision referred to in the first question be disapplied in its entirety, with the result that the rights and entitlements in respect of Good Friday set out in the first question are not to be granted to any employees?

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

**Verdict at:** 2017-04-13

**Case number:** C-193/17