

Ruling

Article 5 of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation must be interpreted as meaning that the concept of ‘reasonable accommodation’ for disabled persons, within the meaning of that article requires that a worker, including someone undertaking a traineeship following his or her recruitment, who, owing to his or her disability, has been declared incapable of performing the essential functions of the post that he or she occupies, be assigned to another position for which he or she has the necessary competence, capability and availability, unless that measure imposes a disproportionate burden on the employer.

ECJ 10 February 2022, case C-219/20 (Bezirkshauptmannschaft Hartberg-Fürstenfeld), Posting of Workers and Expatriates

LM – v – Bezirkshauptmannschaft Hartberg-Fürstenfeld, Austrian case

Summary

Member States are allowed to impose sanctions on foreign service providers for breaches of the Posting of Workers Directive (96/71/EC) even after five years.

Question

Must Article 5 of Directive 96/71, read in conjunction with Article 47 of the Charter and in the light of the general principle of EU law relating to the right to good administration, be interpreted as precluding national legislation providing for a five-year limitation period for failure to comply with obligations relating to the remuneration of posted workers?

Ruling

Article 5 of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the pro-

vision of services, read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union and in the light of the general principle of EU law relating to the right to good administration, must be interpreted as not precluding national legislation providing for a five-year limitation period for failure to comply with obligations relating to the remuneration of posted workers.

ECtHR 17 February 2022, app. no. 46586/14 (D’Amico v. Italy), Pension

Ms Immacolata Filomena D’Amico – v – Italian Government, Italian case

Summary

No sufficiently compelling reason justifying retrospective application of a law determining the substance of pensions disputes in pending proceedings. The ECJ’s press release is available here: <https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7262572-9889223&filename=Judgments%20and%20decisions%20of%2017.02.2022.pdf>.

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Ruling

The Court, unanimously:

- Dismisses the Government’s objection that the applicant did not suffer a significant disadvantage;
- Joins to the merits the Government’s objection that the application is manifestly ill-founded and dismisses it;
- Declares the application admissible;
- Holds that there has been a violation of Article 6 § 1 of the Convention;
- Holds
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts at the rate applicable at the date of settlement:
 - (i) EUR 9,700 (nine thousand seven hundred euros), plus any tax that may be chargeable, in respect of pecuniary damage;
 - (ii) EUR 6,000 (six thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest