

ECJ Court Watch – Pending cases

Case C-677/16. Fixed-term work

Lucía Montero Mateos – v – Agencia Madrileña de Atención Social de la Consejería de Políticas Sociales y Familia de la Comunidad Autónoma de Madrid, reference lodged by the Spanish Juzgado de lo Social No 33 de Madrid on 29 December 2016

Must clause 4(1) of the Framework Agreement on fixed-term work concluded by ETUC, UNICE and CEEP which forms part of the Community legal order by virtue of Council Directive 1999/70 1 be interpreted as meaning that termination of a temporary ‘contrato de interinidad’ to cover a vacancy when the term for which the contract was concluded by the employer and the worker expires constitutes objective grounds justifying the Spanish legislature’s not providing in such a case for any compensation whatsoever for the termination of the contract, whereas compensation of 20 days’ pay for every year of service is provided for in the case of a comparable permanent worker dismissed on objective grounds?

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Case C-12/17. Parental leave

Maria Dicu – v – Ministerul Justiției, Consiliul Superior al Magistraturii, Curtea de Apel Suceava, Tribunalul Botoșani, reference lodged by the Romanian Curtea de Apel Cluj on 10 January 2017

Must Article 7 of Directive 2003/88/EC 1 be interpreted as precluding a provision of national law which, in determining the duration of a worker’s annual leave, does not consider the period of parental leave for a child under two a period of service completed?

Case C-17/17. Insolvency

Grenville Hampshire – v – The Board of the Pension Protection Fund, reference lodged by the English Court of Appeal on 16 January 2017

Does Article 8 of Directive 80/987/EEC1 (now superseded by Article 8 of Directive 2008/94/EC2) require member states to ensure that every individual employee receives at least 50% of the value of his accrued entitlement to old-age benefits in the event that his employer becomes insolvent (with the sole exception of cases of abuse, to which Article 10(a) of that Directive applies)? Alternatively, subject to the findings of the national courts regarding the facts of the case, is it sufficient under Article 8 of Directive 80/987/EEC for a member state to have a system of protection where employees usually receive more than 50% of the value of their accrued entitlement to old-age benefits but some individual employees receive less than 50% by virtue of:

- i. a financial cap on the amount of compensation paid to employees (in particular employees who have not reached their pension scheme’s normal pension age at the time of the employer’s insolvency); and/or
- ii. rules limiting the annual increases in the compensation paid to employees or the annual revaluation of their entitlements prior to pension age?

Is Article 8 of Directive 80/987/EEC directly effective in the circumstances of the present case?

Case C-41/17. Health and safety

Isabel González Castro – v – Mutua Umivale, Prosegur España, S.L., reference lodged by the Spanish Tribunal Superior de Justicia de Galicia on 25 January 2017

Has Article 7 of Directive 92/85/EEC 1 to be interpreted as meaning that the night work, which those workers referred to in Article 2, including workers who are breastfeeding, must not be obliged to perform, includes not only work performed entirely during the night, but also shift work when, as in this case, some of those shifts are worked at night?