account for the purpose of calculating the retirement pension entitlement.

ECJ 13 November 2018, case C-432/17 (Cepelnik), Other forms of free movement

Cepelnik d.o.o. – v – Michael Vavti, Austrian case

Question

Must Article 56 TFEU and Directive 2014/67 be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, under which the competent authorities can order a commissioning party established in that Member State to suspend payments to his contractor established in another Member State, or even to pay a security in an amount equivalent to the price still owed for the works in order to guarantee payment of the fine which might be imposed on that contractor in the event of a proven infringement of the labour law of the first Member State?

Ruling

Article 56 TFEU must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, under which the competent authorities can order a commissioning party established in that Member State to suspend payments to his contractor established in another Member State, or even to pay a security in an amount equivalent to the price still owed for the works in order to guarantee payment of the fine which might be imposed on that contractor in the event of a proven infringement of the labour law of the first Member State.

ECJ 21 November 2018, case C-245/17 (Viejobueno Ibáñez and De la Vara González), Fixed-term work, Paid leave

Pedro Viejobueno Ibáñez, Emilia de la Vara González – v – Consejería de Educación de Castilla-La Mancha, Spanish case

Legal background

Clause 4 of the Framework Agreement on Fixed-Term Work (annexed to Directive 1999/70/EC) prohibits fixed-term workers from being treated less favourably than comparable permanent workers solely because they have a fixed-term contract, unless different treatment is justified on objective grounds.

Article 7(2) of Directive 2003/88/EC (on Working Time and Annual Leave) provides that the minimum period of annual leave may not be replaced by an allowance in lieu, except where the employment relationship is terminated.

The Spanish Law (7/2007) on the basic regulations relating to public servants provides, *inter alia*, that vacant posts may be occupied by interim public servants for expressly justified 'reasons of necessity and urgency'. Their employment relationship can be terminated when the reason no longer applies.

An agreement on the selection of interim teachers (similar to a collective bargaining agreement) stipulates that those who have worked at least 5.5 months by 30 June in the year in question will retain their post until the beginning of the next academic year (September). However, the Finance Law of 2012 states that this agreement does not apply, insofar as concerns the payment of an allowance for leave in July and August for certain interim staff. Instead, they receive a limited allowance.

Facts

Mr Viejobueno Ibáñez and Ms de la Vara González were both appointed as interim teachers for the academic year 2011/2012 (they had different employers). On 29 June 2012, both their employers decided to terminate their employment. They both started proceedings, in which it became clear that their positions were terminated because the 'reasons of necessity and urgency' for which they were appointed no longer applied. However, their colleagues in permanent positions kept their posts

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