Case C-652/19, Fixed-term work, Collective redundancies

KO – v – Fallimento Consulmarketing SpA, reference lodged by the Tribunale di Milano (Italy) on 2 September 2019

1. Do the principles of equal treatment and non-discrimination enshrined in clause 4 of Directive 99/70/EC on employment conditions preclude the legal provisions of Article 1(2) and Article 10 of *Decreto Legislativo 23/15* (Legislative Decree No 23/15), which, with regard to collective redundancies that are unlawful due to non-compliance with the selection criteria, provide for a dual and differentiated system of protection whereby in the same procedure appropriate, effective and dissuasive protection is provided for employment relationships of indefinite duration created prior to 7 March 2015 – for which reinstatement and the payment of employer's contributions are envisaged as possible remedies – yet limited compensation only, between maximum and minimum amounts, is offered for fixed-term employment relationships having the same length of service, in that they were created prior to that date but converted to an open-ended contract after 7 March 2015, which is a less effective and dissuasive form of protection?
2. Do the provisions contained in Articles 20 and 30 of the Charter of Fundamental Rights and in Directive 98/59/EC preclude a legal provision such as Article 10 of Legislative Decree No 23/15 which introduces exclusively for workers hired (or whose fixed-term contract was converted) for an indefinite duration after 7 March 2015 an arrangement whereby, in the event of collective redundancies that are unlawful due to non-compliance with the selection criteria, reinstatement is not an option – unlike for the other similar employment relationships established beforehand and involved in the same procedure – and which instead introduces a concurrent system of compensation only which is insufficient to make good the financial consequences resulting from the loss of employment and which is inferior to the other coexisting model, applied to other workers whose relationships have the same characteristics with the sole exception of the date of conversion or creation?

Case C-710/19, Free movement

G.M.A. – v – Belgian State, reference lodged by the Conseil d'État (Belgium) on 25 September 2019

1. Is Article 45 of the Treaty on the Functioning of the European Union to be interpreted and applied as meaning that the host Member State is required (1) to allow jobseekers a reasonable period of time to acquaint themselves with potentially suitable employment opportunities and take the necessary steps to obtain employment, (2) to accept that the time allowed for seeking employment cannot in any circumstances be less than six months, and (3) to permit a jobseeker to stay within its territory for the whole of that period, without requiring him to prove that he has a real chance of obtaining employment?
2. Are Articles 15 and 31 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, Articles 41 and 47 of the Charter of Fundamental Rights of the European Union, and the general principles of primacy of EU law and effectiveness of directives, to be interpreted and applied as meaning that the national courts of the host Member State are required, in the context of an action for annulment brought against a decision refusing to recognise a right of residence of more than three months of an EU citizen, to have regard to new facts and matters arising after the decision of the national authorities, where such facts and matters are capable of altering the situation of the person concerned in such a way that it is no longer permissible to restrict his right of residence in the host Member State?

doi: 10.5553/EELC/187791072019004004029