### ECJ 17 December 2020, case C-218/19 (Onofrei), Work and Residence Permit

Adina Onofrei – v – Conseil de l'ordre des avocats au barreau de Paris, Bâtonnier de l'ordre des avocats au barreau de Paris, Procureur général près la cour d'appel de Paris, French case

Unfortunately, no English translation of the case is available yet. Other language versions can be found on: http://curia.europa.eu/juris/documents.jsf? oqp=&for=&mat=or&lgrec=en&jge=&td=%3BALL&jur=C%2CT%2CF&num=218%252F19&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252CR%252C2008E%252C%252C%252C

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# ECJ 17 December 2020, case C-601/19 P (BP v FRA), Miscellaneous

BP – v – European Union Agency for Fundamental Rights (FRA), EU Case

#### Form of order sought

The appellant claims that the Court should:

- set aside the contested judgment and consequently
- annul the decision of the Authority Empowered to Conclude Contracts of Employment (AHCC) of 21 April 2016 not to renew her employment contract;
- award compensation for material and non-material damage suffered by the applicant as a result of the unlawful non-renewal decision on the one hand and the unlawful execution of the judgement in case T-658/13P, on the other hand;
- award compensation for material and non-material damage suffered by the applicant due to the defendant's failure to adopt the lawful rules for appraisal, reclassification and renewal and the related harm resulted from the absence of such lawful rules;
- rule that the FRA Guidelines for appraisal and reclassification and the FRA Director decision 2009/13 regarding renewal of employment con-

- tracts are unlawful insofar as these rules were adopted following an unlawful procedure by an author lacking appropriate competence;
- exercise its full jurisdiction to ensure the effectiveness of its decision;
- order the defendant to pay the default interest at the key rate of the European Central Bank plus two percentage points on the amount eventually awarded or any other award of interest payment which the Court thinks just and appropriate;
- order the FRA to pay the costs incurred at first instance and on appeal.

#### **Decision**

The Court (Eighth Chamber):

- 1. Dismisses the appeal;
- 2. Orders BP to bear her own costs and to pay those incurred by the European Union Agency for Fundamental Rights (FRA).

# ECJ 17 December 2020, case C-710/19 (G. M. A. (Demandeur d'emploi)), Social Insurance

G.M.A. - v - Belgium, Belgian case

#### Summary

A host state must grant a Union citizen a reasonable period to find a job.

#### Questions

- 1. Must Article 45 TFEU and Article 14(4)(b) of Directive 2004/38 be interpreted as meaning that the host Member State is required to allow a jobseeker a reasonable period of time to acquaint himself or herself with potentially suitable employment opportunities and take the necessary steps to obtain employment, that the reasonable period of time cannot in any circumstances be less than six months, and that, during that period, the host Member State may require the jobseeker to provide evidence that he or she is seeking employment and that he has a genuine change of being engaged?
- 2. Must Articles 15 and 31 of Directive 2004/38, Articles 41 and 47 of the Charter and the principles of primacy and effectiveness be interpreted as meaning

that the courts of the host Member State are required, when examining an action against a decision refusing to grant a jobseeker a right of residence for more than three months, to carry out a review of unlimited jurisdiction and to take account of factors arising after that decision, where those factors are likely to change the jobseeker's situation and justify granting that right of residence?

#### Ruling

- 1. Article 45 TFEU and Article 14(4)(b) 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 amending Regulation (EEC) No. 1612/68 and repealing Directives 64/221/EEC, 68/360/ EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC 93/96/EEC must be interpreted as meaning that a host Member State is required to grant a reasonable period of time to a Union citizen, which starts to run from the time when that Union citizen registered as a jobseeker, in order to allow that person to acquaint himself or herself with potentially suitable employment opportunities and take the necessary steps to obtain employment.
- 2. During that period, the host Member State may require the jobseeker to provide evidence that he or she is seeking employment. It is only after the expiry of that period that that Member State may require the jobseeker to show not only that he or she is continuing to seek employment but also that he or she has a genuine chance of being engaged.

## ECJ 21 January 2021, C-843/19 (INSS), Gender Discrimination, Pension

Instituto Nacional de la Seguridad Social (INSS) – v – BT

#### **Summary**

Requiring a minimum pension amount for allowing early retirement is not contrary to Article 4(1) of Directive 79/7 even if it puts female workers at a particular disadvantage, provided that this is justified by legitimate reasons of social policy which are not related to gender discrimination.

Unfortunately, no English translation of this judgment is available yet. Other language versions are available on:

ECJ 26 January 2021, Case C-16/19 (Szpital Kliniczny im. dra J. Babińskiego Samodzielny Publiczny Zakład Opieki Zdrowotnej w Krakowie), Disability Discrimination, General Discrimination

VL – v – Szpital Kliniczny im. dra J. Babińskiego Samodzielny Publiczny Zakład Opieki Zdrowotnej w Krakowie, Polish Case

#### **Summary**

Payment of an allowance only to workers with disabilities who have submitted disability certificates after a date chosen by that employer may constitute direct or indirect discrimination on the grounds of disability.

#### Question

Must Article 2 of Directive 2000/78 be interpreted as meaning that the practice adopted by an employer and consisting in the exclusion of workers with disabilities, who have already submitted disability certificates to that employer before the date chosen by that employer for the submission of such a certificate, from receiving an allowance paid to workers with disabilities may be covered by the 'concept of discrimination' referred to in that provision?

#### Ruling

Article 2 of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for