

## ECJ Court Watch – Pending Cases

### Case C-101/21, Insolvency

HJ – v – Ministerstvo práce a sociálních věcí, reference lodged by the Nejvyšší správní soud (Czech Republic) on 18 February 2021

Does Article 2 of Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer, in conjunction with Article 12(a) and (c) thereof, preclude [the application of] national case-law according to which a CEO of a trading company is not deemed to be an ‘employee’ for the purpose of the satisfaction of pay claims pursuant to Directive 2008/94/EC, for the sole reason that the CEO as an employee is, at the same time, a member of the statutory body of the same trading company?

Rights of the European Union preclude the application of national legislation such as Paragraph 194(1), in conjunction with Paragraph 195, of the *Bürgerliches Gesetzbuch* (German Civil Code; ‘the BGB’), under which the entitlement to paid annual leave is subject to a standard limitation period of three years, which starts to run at the end of the leave year under the conditions set out in Paragraph 199(1) of the BGB, if the employer has not actually enabled a worker to exercise his or her leave entitlement by accordingly informing him or her of the leave and inviting him or her to take that leave?

### Case C-133/21, Fixed-term Work

VP, CX, RG, TR and Others – v – Elliniko Dimosio, reference lodged by the Efeteio Athinon (Greece) on 3 March 2021

1 Is national legislation, such as that at issue, which imposes different treatment for wage purposes on workers with fixed-term contracts within the meaning of clause of Directive 1999/70/EC 1 as compared to the comparable permanent worker, on the basis of the sole criterion of differentiation that their contracts are classified by their employer or by law as fixed-term contracts for work, compatible with clause 4 of Directive 1999/70/EC?

2 In particular, is national legislation under which different treatment of workers for wage purposes is justified on the ground that they provided their work under fixed-term contracts in the knowledge that they were covering fixed and permanent needs of the employer compatible with clause 4 of Directive 1999/70/EC?

### Cases C-106/21, C-107/21 and C-135/21, Unions

Deutsche Lufthansa AG – v – BC, ZR, GD and WT, references lodged by the Landgericht Köln (Germany) on 22 February and 4 March 2021

Does a strike by the air carrier’s own employees which is called by a trade union constitute an extraordinary circumstance within the meaning of Article 5(3) of Regulation (EC) No 261/2004?

### Case C-192/21, Fixed-term Work

Clemente – v – Comunidad de Castilla y León (Dirección General de la Función Pública), reference lodged by the Tribunal Superior de Justicia de Castilla y León (Spain) on 26 March 2021

1 Must the concept of ‘comparable permanent worker’ in Clause 4(1) of the framework agreement on fixed-term contracts concluded on 18 March 1999 between

### Case C-120/21, Paid Leave

LB – v – TO, reference lodged by the Bundesarbeitsgericht (Germany) on 26 February 2021

Do Article 7 of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time and Article 31(2) of the Charter of Fundamental