

ECJ Court Watch – Pending Cases

Case C-57/22, Paid Leave

YQ – v – Ředitelství silnic a dálnic ČR, reference lodged by the Nejvyšší soud České republiky (Czech Republic) on 28 January 2022

Must Article 7(1) 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 be interpreted as precluding national case-law by virtue of which a worker who was unlawfully dismissed then reinstated in his or her employment, in accordance with national law, following the annulment of the dismissal by a decision of a court, is not entitled to paid annual leave for the period between the date of the dismissal and that of the reinstatement in his or her employment on the ground that, during that period, that worker did not actually carry out work for the employer, also in cases when, according to national legislation, the worker who has been unlawfully dismissed and who has without undue delay informed his or her employer in writing that he or she insists on being employed, is entitled to wage or salary compensation in the amount of average earnings from the date when he or she informed the employer that he or she insists on the continuation of his or her employment until such time as the employer allows him or her to carry on in his or her work or his or her employment relationship is validly terminated?

Case C-57/22, Work and Residence Permitt

European Commission – v – Czech Republic, action brought on 4 February 2022

Form of order sought

The applicant claims that the Court should:

- declare that, by failing to implement correctly Article 3(1)(g) and (h), Article 6(b), Article 7(3), Article 21(6), Article 31(3), Article 45(2)(c), Article 45(2)(f) and, in part, Article 45(2)(e), Article 45(3), Article 50(1) in conjunction with point 1(d) and (e) of Annex VII and Article 51(1) of Directive 2005/36/EC 1 of the European Parlia-

ment and of the Council of 7 September 2005 on the recognition of professional qualifications, as amended by Directive 2013/55/EU 2 of the European Parliament and of the Council, the Czech Republic has failed to fulfil its obligations under those provisions of the directive

- order the Czech Republic to pay the costs.

Pleas in law and main arguments

- Article 3(1)(g) and (h) – The Commission claims that the Czech Republic has failed to implement the obligation to fix the legal status of persons undergoing periods of supervised practice and persons preparing for an aptitude test contained in those provisions of the Directive.
- Article 6(b) – The Commission alleges that the Czech Republic has failed to exempt service providers from registration with a public social security body of the host Member State for the purpose of settling accounts with an insurer relating to activities pursued for the benefit of insured persons.
- Article 7(3) – In the Commission’s view, there was no clear implementation of this provision of the Directive, which enables architects and veterinary surgeons to use the professional title of the host Member States, in so far as they are architects and veterinary surgeons.
- Article 21(6) and Article 31(3) – The Commission submits that the Czech Republic failed to implement correctly those provisions concerning pursuit of professional training for nurses responsible for general care in relation to the profession of general nursing.
- Article 45(2)(c), Article 45(2)(f) and, in part, Article 45(2)(e) – The Commission claims that the Czech Republic has incorrectly implemented that provision of the Directive, since it has not ensured pharmacists access to the activities included in those provisions.
- Article 45(3) – The Commission takes the view that the Czech Republic has incorrectly implemented that provision of the Directive since it has not ensured the access of pharmacists who have obtained a professional qualification in another Member State to a minimal number of activities, while that approach may be made contingent only on supplementary professional experience.

- Article 50(1) in conjunction with Annex VII, point 1(d) and (e)- In the Commission’s opinion, that provision of the Directive has not been correctly implemented since the Czech Republic has not provided that the time limit for the provision of the documents required from the home Member State is to be two months.
- Article 51(1) – The Commission alleges that the Czech Republic incorrectly implemented that provision of the Directive on the ground that it failed to provide that the time limit for the acknowledgement of receipt of the application for the recognition of professional qualifications and for informing the applicant of any missing document is one month.

Case C-112/22, Free Movement, Social Insurance

CU, reference lodged by the Tribunale di Napoli (Italy) on 17 February 2022

- Does European Union law, and in particular Article 18 of the Treaty on European Union, Article 45 of the Treaty on European Union, Article 7(2) of EU Regulation 492/11, Article 11(1)(d) of EU Directive 2003/109, Article 29 of EU Directive 2011/95, Article 34 of the Charter of Fundamental Rights of the European Union and Articles 30 and 31 of the Social Charter of the Council of Europe, preclude national legislation such as that contained in Article 7(1) of Decree-Law No 4 of 28 January 2019, converted into law and amended by Law No 26 of 28 March 2019, read in conjunction with Article 7(2)(1)(a) thereof, in so far as it makes access to basic income subject to the condition relating to residence in Italy for at least ten years (the final two of which, as at the time the application is made and for the entire duration of the benefit, must be consecutive), thus affording treatment to Italian nationals, EU nationals with a right of residence or permanent residence, or non-EU long-term residents who have been resident for less than ten years or for ten years, the final two of which were not consecutive, which is less favourable than that accorded to the same categories who have been resident for ten years, the final two of which were consecutive?
- If the answer to the previous question is in the affirmative:
 - Does European Union law, and in particular Article 18 of the Treaty on European Union, Article 45 of the Treaty on European Union, Article 7(2) of EU Regulation 492/11, Article 11(1)(d) of EU Directive 2003/109, Article 29 of EU Directive 2011/95, Article 34 of the Charter of Fundamental Rights of the Euro-

pean Union and Articles 30 and 31 of the Social Charter of the Council of Europe, preclude national legislation such as that contained in Article 7(1) of Decree-Law No 4 of 28 January 2019, converted into law and amended by Law No 26 of 28 March 2019, read in conjunction with Article 7(2)(1)(a) thereof, in so far as it affords different treatment to long-term residents, who can acquire a permanent right of residence in an EU State after residing for five years in the host Member State, and long-term residents who have been resident for ten years, the final two of which were consecutive?

- Does European Union law, and in particular Article 18 of the Treaty on European Union, Article 45 of the Treaty on European Union, Article 7(2) of EU Regulation 492/11, Article 11(1)(d) of EU Directive 2003/109 and Article 29 of EU Directive 2011/95, preclude national legislation such as that contained in Article 7(1) of Decree-Law No 4 of 28 January 2019, read in conjunction with Article 7(2)(1)(a) thereof, which requires Italian nationals, EU nationals and non-EU nationals to be resident for ten years (the final two of which must be consecutive) in order to access basic income benefit?
- Does European Union law, and in particular Article 18 of the Treaty on European Union, Article 45 of the Treaty on European Union, Article 7(2) of EU Regulation 492/11, Article 11(1)(d) of EU Directive 2003/109, Article 29 of EU Directive 2011/95, Article 34 of the Charter of Fundamental Rights of the European Union and Articles 30 and 31 of the Social Charter of the Council of Europe, preclude national legislation such as that contained in Article 7(1) of Decree-Law No 4 of 28 January 2019, read in conjunction with Article 7(2)(1)(a) thereof, in so far as it, for the purposes of obtaining basic income benefit, requires Italian nationals, EU nationals and non-EU nationals to declare that they have resided in Italy for ten years, the final two of which must be consecutive, subjecting false declaration to severe consequences of criminal relevance?