Questions

1. Must Article 2(2)(a) and (b) of Directive 2000/78 be interpreted as meaning that an internal rule of a municipal authority prohibiting, in a general and indiscriminate manner, the members of that authority's staff from visibly wearing in the workplace any sign revealing, in particular, philosophical or religious beliefs may be justified by the desire of the said authority to establish an entirely neutral administrative environment?
2. Must Article 2(2)(a) and (b) of Directive 2000/78 be interpreted as permitting a public authority to organise an entirely neutral administrative environment by prohibiting all the members of its staff from visibly wearing signs which reveal, in particular, philosophical or religious beliefs, whether or not those staff members are in direct contact with the public, where that prohibition appears mostly to affect women and is therefore liable to constitute indirect discrimination on the grounds of sex?

Ruling

Article 2(2)(a) of Directive 2000/78 must be interpreted as meaning that an internal rule of a municipal authority prohibiting, in a general and indiscriminate manner, the members of that authority's staff from visibly wearing in the workplace any sign revealing, in particular, philosophical or religious beliefs may be justified by the desire of the said authority to establish, having regard to the context in which it operates, an entirely neutral administrative environment provided that that rule is appropriate, necessary and proportionate in the light of that context and taking into account the various rights and interests at stake.

ECJ 30 November 2023, case C-270/22 (Ministero dell'Instruzione en INPS), Fixed-Term Work

G.D., A.R., C.M. – v – Ministero dell'Instruzione, Instituto nazionale della previdenza sociale (INPS), Italian case

Summary

National legislation which, for the purposes of recognizing the length of service of a worker upon his or her establishment in employment, excludes periods of service completed under fixed-term employment contracts that do not amount to 180 per academic year, exceeds what is necessary and is thereby precluded by clause 4 of the framework agreement on fixed-term work.

Question

Must clause 4 of the framework agreement on fixed-term work be interpreted as precluding national legislation which, for the purposes of recognising the length of service of a worker upon his or her employment as a career civil servant, excludes periods of service completed under fixed-term employment contracts that do not amount to 180 days per academic year or are not carried out continuously between 1 February and the end of the final assessment of the pupils, irrespective of the actual number of hours worked, and limits to two thirds periods of service reaching those thresholds beyond four years, subject to the reinstatement of the remaining third after a certain number of years of service?

Ruling

Clause 4 of the framework agreement on fixed-term work must be interpreted as precluding national legislation which, for the purposes of recognising the length of service of a worker upon his or her establishment in employment as a career civil servant, excludes periods of service completed under fixed-term employment contracts that do not amount to 180 days per academic year or that are not carried out continuously between 1 February and the end of the final assessment of the pupils, irrespective of the actual number of hours worked, and which limits to two thirds the taking into account of periods of service reaching those thresholds beyond four years, subject to reinstatement of the remaining third after a certain number of years of service.

ECJ 7 December 2023, case C-518/22 (AP Assistenzprofis), Age discrimination

J.M.P. – v – AP Assistenzprofis GmbH, German case

Summary

The hiring of a personal assistant to help a disabled person in everyday life may be limited to persons within the

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same age range. The ECJ's summary of the case can be found on https://curia.europa.eu/jcms/upload/docs/application/pdf/2023-12/cp230187en.pdf.

Question

Must Article 2(5), Article 4(1), Article 6(1) and/or Article 7 of Directive 2000/78, read in the light of the provisions of the Charter and Article 19 of the UN Convention, be interpreted as precluding the recruitment of a person providing personal assistance from being subject to an age requirement pursuant to national legislation under which account is to be taken of the individual wishes of persons who are entitled to personal assistance services as a result of their disability?

Ruling

Article 2(5) of Directive 2000/78, read in the light of Article 26 of the Charter and Article 19 of the UN Convention, must be interpreted as not precluding the recruitment of a person providing personal assistance from being subject to an age requirement pursuant to national legislation under which account is to be taken of the individual wishes of persons who are entitled to personal assistance services as a result of their disability, if such a measure is necessary for the protection of the rights and freedoms of others.

ECJ 14 December 2023, case C-206/22 (Sparkasse Südpfalz), Paid Leave

TF – v – Sparkasse Südpfalz, German case

Summary

An employee who 'enjoys' his annual leave while he is quarantined, is not entitled to take that leave at a later moment. The ECJ's summary of the case is available on https://curia.europa.eu/jcms/upload/docs/application/pdf/2023-12/cp230189en.pdf.

Question

Must Article 7(1) of Directive 2003/88 and Article 31(2) of the Charter be interpreted as precluding national legislation or practice that does not permit the carry-over of days of paid annual leave which were granted to a worker who is not sick in respect of a period coinciding with a period of quarantine ordered by a public authority on account of that worker having been in contact with a person infected with a virus?

Ruling

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 and Article 31(2) of the Charter of Fundamental Rights of the European Union must be interpreted as not precluding national legislation or practice that does not permit the carry-over of days of paid annual leave which were granted to a worker who is not sick in respect of a period coinciding with a period of quarantine ordered by a public authority on account of that worker having been in contact with a person infected with a virus.

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