8. Disregarding the principles established by the Court in case C-294/83.

Request for a preliminary ruling from the Tribunal Superior de Justicia de Galicia (Spain) lodged on 24 April 2017 — Simón Rodríguez Otero v Televisión de Galicia S.A.

(Case C-212/17)

(2017/C 231/19)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Galicia

Parties to the main proceedings

Appellant: Simón Rodríguez Otero

Respondent: Televisión de Galicia S.A.

Other party: Ministerio Fiscal

Questions referred

1.a) For the purposes of the principle of equivalence between workers with fixed-term contracts and those with contracts of indefinite duration, must ending of the employment contract due to 'objective circumstances' under Article 49(1)(c) ET [Estatuto de los Trabajadores: Workers' Statute] and its ending on 'objective grounds' under Article 52 ET be regarded as 'comparable situations' and does, therefore, the difference between the compensation payable in either case constitute unequal treatment between workers with fixed-term contracts and those with contracts of indefinite duration, prohibited by **Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP**? ([1])

2.a) If so, must the social-policy objectives legitimising the creation of the 'contrato de relevo' model of contract also be deemed to justify, under clause 4.1 of the abovementioned framework agreement, the difference in treatment relating to the lower amount of compensation for termination of the employment relationship when the employer freely decides that such a 'contrato de relevo' should be for a fixed term?

([1]) OJ 1999 L 175, p. 43.

Appeal brought on 27 April 2017 by Islamic Republic of Iran Shipping Lines, Hafize Darya Shipping Lines (HDSL), Khazar Sea Shipping Lines Co., IRISL Europe GmbH, IRISL Marine Services and Engineering Co., Irano Misr Shipping Co., Safiran Payam Darya Shipping Lines, Shipping Computer Services Co., Soroush Sarzamin Asatir Ship Management, South Way Shipping Agency Co. Ltd, Valfajr 8th Shipping Line Co. against the judgment of the General Court (First Chamber) delivered on 17 February 2017 in joined Cases T-14/14 and T-87/14: Islamic Republic of Iran Shipping Lines and Others v Council of the European Union

(Case C-225/17 P)

(2017/C 231/20)

Language of the case: English

Parties

Appellants: Islamic Republic of Iran Shipping Lines, Hafize Darya Shipping Lines (HDSL), Khazar Sea Shipping Lines Co., IRISL Europe GmbH, IRISL Marine Services and Engineering Co., Irano Misr Shipping Co., Safiran Payam Darya Shipping Lines, Shipping Computer Services Co., Soroush Sarzamin Asatir Ship Management, South Way Shipping Agency Co. Ltd, Valfajr 8th Shipping Line Co. (represented by: M. Taher, Solicitor, M. Lester QC, Barrister)

Other party to the proceedings: Council of the European Union

Form of order sought

The appellants claim that the Court should:

— set aside the judgment of the General Court of 17 February 2017 in Joined Cases T-14/14 and T-87/14

— determine the case before the General Court and in particular:

  — annul the 'October 2013 measures' (Council Decision 2013/497 ([1]) amending Decision 2010/413 ([2]) and Council Regulation 971/2013 ([3]) amending Regulation 267/2012 ([4])) and the 'November 2013 measures' (Council Decision 2013/685 ([5]) amending Decision 2010/413 and Council Implementing Regulation 1203/2013 ([6]) implementing Regulation 267/2012) insofar as those restrictive measures against Iran concerned the appellants;

  — alternatively, declare the October 2013 measures inapplicable insofar as they apply to the appellants by reason of illegality; and

— order that the respondent pay the costs of the appeal and of the proceedings before the General Court.

Pleas in law and main arguments

In support of the appeal in relation to the declaration of inapplicability, the appellants rely on the following pleas in law:

1. **First plea in law**, alleging that the General Court erred in finding that the October 2013 measures had a valid legal basis.

2. **Second plea in law**, alleging that the General Court erred in finding that the October 2013 measures did not infringe the principles of res judicata, legal certainty, legitimate expectations and ne bis in idem, or the right to an effective remedy.

3. **Third plea in law**, alleging that the General Court erred in finding that the respondent had not misused its powers in enacting the October 2013 measures.

4. **Fourth plea in law**, alleging that the General Court erred in finding that the respondent had not infringed the appellants' rights of defence.

5. **Fifth plea in law**, alleging that the General Court erred finding that the October 2013 measures were not an unjustified and disproportionate interference with the appellants' fundamental rights.

In support of the appeal in relation to the application for annulment, the appellant relies on the following pleas in law:

1. **First plea in law**, alleging that the General Court erred in failing to find that the respondent made a number of manifest errors of assessment in finding that the listing criteria in the November 2013 measures were fulfilled as regards each of the appellants.

2. **Second plea in law**, alleging that the General Court erred in finding that the respondent had not infringed the appellants' rights of defence in re-listing them in the November 2013 measures.

3. **Third plea in law**, alleging that the General Court erred in finding that re-listing the appellants in the November 2013 measures did not infringe the principles of res judicata, legal certainty, legitimate expectations and ne bis in idem, or the right to an effective remedy.

4. **Fourth plea in law**, alleging that the General Court erred finding that the November 2013 measures were not an unjustified and disproportionate interference with the appellants' fundamental rights.

(1) Council Decision 2013/497/CFSP of 10 October 2013 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2013, L 272, p. 46).
(2) Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ 2010, L 195, p. 39).
(3) Council Regulation (EU) No 971/2013 of 10 October 2013 amending Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2013, L 272, p. 1).
(4) Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ 2012, L 88, p. 1).
(5) Council Decision 2013/685/CFSP of 26 November 2013 amending Decision 2010/413/CFSP concerning restrictive measures against Iran (OJ 2013, L 316, p. 46).
(6) Council Implementing Regulation (EU) No 1203/2013 of 26 November 2013 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran (OJ 2013, L 316, p. 1).

Request for a preliminary ruling from the Amtsgericht Hannover (Germany) lodged on 28 April 2017 — Brigitte Wittmann v TUIfly GmbH

(Case C-226/17)

(2017/C 231/21)

Language of the case: German

Referring court

Amtsgericht Hannover

Parties to the main proceedings

Applicant: Brigitte Wittmann

Defendant: TUIfly GmbH

Questions referred

1. Is the absence on sick leave of a significant part of an operating air carrier's staff for flight operation an extraordinary circumstance under Article 5(3) of Regulation (EC) No 261/2004? ([1]) In the event that the first question is answered in the affirmative: how high must the rate of absence be to constitute such an extraordinary circumstance?

2. In the event that the first question is answered in the negative: is the spontaneous absence, due to unauthorised work stoppage under employment law or collective agreements ('wildcat strike'), of a significant part of an operating air carrier's staff for flight operation an extraordinary circumstance under Article 5(3) of Regulation (EC) No 261/2004? In the event that the second question is answered in the affirmative: how high must the rate of absence be to constitute such an extraordinary circumstance?

3. In the event that the first or the second question is answered in the affirmative: must the extraordinary circumstance itself have been present at the time the flight was cancelled or is the operating air carrier entitled to devise a new flight plan pursuant to economic considerations?

4. In the event that the first or the second question is answered in the affirmative: does the avoidability criterion relate to the extraordinary circumstance or, rather, to the consequences of the occurrence of the extraordinary circumstance?

(1) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91, OJ 2004 L 46, p. 1.