



C/2026/784

16.2.2026

Action brought on 19 December 2025 – European Commission v Italian Republic

(Case C-863/25)

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Language of the case: Italian

Parties

Applicant: European Commission (represented by: S. Delaude and D. Recchia, acting as Agents)

Defendant: Italian Republic

Forms of order sought

The Commission claims that the Court should:

1) declare that

- by providing for less favourable treatment for honorary members of the judiciary recruited after 15 August 2017 in relation to various conditions of employment,
- by failing to adopt measures to penalise the misuse of successive fixed-term employment relationships with such honorary members of the judiciary,
- and by failing to establish a system to ensure compliance with the limits on daily and weekly working time for those honorary members of the judiciary,

the Italian Republic has failed to fulfil its obligations under Clause 4(1) and Clause 5(1) of the framework agreement annexed to Directive 1999/70 ⁽¹⁾ ('the Framework Agreement on fixed-term work'), Clause 4(1) of the framework agreement annexed to Directive 97/81 ⁽²⁾ ('the Framework Agreement on part-time work') and Articles 3, 5 and 6 of Directive 2003/88. ⁽³⁾

2) order the Italian Republic to pay the costs of the proceedings.

Pleas in law and main arguments

Decreto Legislativo 13 luglio 2017, n. 116 recante 'Riforma organica della magistratura onoraria e altre disposizioni sui giudici di pace, nonché disciplina transitoria relativa ai magistrati onorari in servizio, a norma della legge 28 aprile 2016, n. 57' (Legislative Decree No 116 of 13 July 2017 on the 'organic reform of the honorary judiciary and other provisions relating to magistrates, and transitional provisions relating to serving honorary members of the judiciary, in accordance with Law No 57 of 28 April 2016'; 'the legislative decree in question'), established new rules governing the status of honorary members of the judiciary appointed after the entry into force of that decree, namely on 15 August 2017.

According to the Commission, those honorary members of the judiciary are subject to discriminatory treatment compared with comparable permanent and full-time workers in terms of remuneration and social security and welfare benefits, in breach of Clause 4(1) of the Framework Agreement on fixed-term work and Clause 4(1) of the Framework Agreement on part-time work.

Furthermore, the Commission notes that the legislative decree in question does not contain any provision establishing penalties for the misuse of fixed-term employment contracts for honorary members of the judiciary who entered service after 15 August 2017, in breach of Clause 5 of the Framework Agreement on fixed-term work.

⁽¹⁾ Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ 1999 L 175, p. 43).

⁽²⁾ Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC (OJ 1998 L 14, p. 9).

⁽³⁾ 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 (OJ 2003 L 299, p. 9).

Lastly, the Commission submits that there is no system in place to measure the daily and weekly working time of those honorary members of the judiciary, contrary to the requirements of Articles 3, 5 and 6 of Directive 2003/88.
