

**Judgment of the Court (Second Chamber) of 21 October 2010 (reference for a preliminary ruling from the Tribunale ordinario di Torino (Italy)) — Antonio Accardo and Others v Comune di Torino**

(Case C-227/09) <sup>(1)</sup>

*(Social policy — Protection of the safety and health of workers — Organisation of working time — Municipal police officers — Directive 93/104/EC — Directive 93/104/EC as amended by Directive 2000/34/EC — Directive 2003/88/EC — Articles 5, 17 and 18 — Maximum weekly working time — Collective agreements or agreements concluded between the two sides of industry at national or regional level — Derogations relating to deferred weekly rest periods and compensatory rest — Direct effect — Interpretation in conformity with European Union law)*

(2010/C 346/24)

Language of the case: Italian

**Referring court**

Tribunale ordinario di Torino

**Parties to the main proceedings**

Applicants: Antonino Accardo, Viola Acella, Antonio Acuto, Domenico Ambrisi, Paolo Battaglino, Riccardo Bevilacqua, Fabrizio Bolla, Daniela Bottazzi, Roberto Brossa, Luigi Calabro', Roberto Cammardella, Michelangelo Capaldi, Giorgio Castellaro, Davide Cauda, Tatiana Chiampo, Alessia Ciaravino, Alessandro Cicero, Paolo Curtabbi, Paolo Dabbene, Mauro D'Angelo, Giancarlo Destefanis, Mario Di Brita, Bianca Di Capua, Michele Di Chio, Marina Ferrero, Gino Forlani, Giovanni Galvagno, Sonia Genisio, Laura Dora Genovese, Sonia Gili, Maria Gualtieri, Gaetano La Spina, Maurizio Loggia, Giovanni Lucchetta, Sandra Magoga, Manuela Manfredi, Fabrizio Maschio, Sonia Mignone, Daniela Minissale, Domenico Mondello, Veronica Mossa, Plinio Paduano, Barbaro Pallavidino, Monica Palumbo, Michele Paschetto, Frederica, Peinetti, Nadia Pizzimenti, Gianluca Ponzio, Enrico Pozzato, Gaetano Puccio, Danilo Ranzani, Pergiani Riso, Luisa Rossi, Paola Sabia, Renzo Sangiano, Davide Scagno, Paola Settia, Raffaella Sottoriva, Rossana Trancuccio, Fulvia Varotto, Giampiero Zucca, Fabrizio Lacognata, Guido Mandia, Luigi Rigon, Daniele Sgavetti

Defendant: Comune di Torino

**Re:**

Reference for a preliminary ruling — Tribunale ordinario di Torino — Interpretation of Articles 5, 17 and 18 of Council Directive 93/104/CE of 23 November 1993 concerning certain aspects of the organisation of working time (JO 1993 L 307, p. 18) — Derogations relating to deferred weekly rest periods and compensatory rest — Applicability to members of the municipal police force

**Operative part of the judgment**

1. Article 17(3) of Council Directive 93/104/EC of 23 November 2003 concerning certain aspects of the organization of working

time, in both its original version and in the version amended by Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000, is independent in scope in relation to Article 17(2) thereof, so that the fact that a profession is not listed in Article 17(2) does not mean that it may not be covered by the derogation provided for in Article 17(3) in either of those versions of Directive 93/104.

2. In circumstances such as those in the main proceedings, the optional derogations provided for in Article 17 of Directive 93/104 and Directive 93/104 as amended by Directive 2000/34 and, where relevant, Articles 17 and/or 18 of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organization of working time, cannot be relied on against individuals such as the applicants in the main proceedings. Moreover, those provisions cannot be interpreted as permitting or precluding the application of collective agreements such as those at issue in the main proceedings, since whether such agreements apply is a matter for domestic law.

<sup>(1)</sup> OJ C 205, 29.8.2009.

**Judgment of the Court (Third Chamber) of 21 October 2010 (reference for a preliminary ruling from the Gerechtshof te Amsterdam (Netherlands)) — Albron Catering BV v FNV Bondgenoten, John Roest**

(Case C-242/09) <sup>(1)</sup>

*(Social policy — Transfers of undertakings — Directive 2001/23/EC — Safeguarding of employees' rights — Group of companies in which staff employed by an 'employer' company and assigned on a permanent basis to an 'operating' company — Transfer of an operating company)*

(2010/C 346/25)

Language of the case: Dutch

**Referring court**

Gerechtshof te Amsterdam

**Parties to the main proceedings**

Applicant: Albron Catering BV

Defendant: FNV Bondgenoten, John Roest

**Re:**

Reference for a preliminary ruling — Gerechtshof te Amsterdam — Interpretation of Article 3(1) of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (OJ 2001 L 82, p. 16) — Company with all the personnel of a group of companies which makes it available to operating companies of the group according to their needs — Transfer of the activity of an operating company outside the group — Classification