

Parties to the main proceedings

Applicants: Luigi D'Aniello and Others

Defendant: Poste Italiane SpA

Questions referred

1. Is it contrary to the principle of equivalence if, in implementing Directive 1999/70/EC, ⁽¹⁾ national legislation makes provision, for cases where an employment contract is unlawfully suspended by operation of a clause which sets an expiry date, for economic consequences which are different from and considerably less favourable than the economic consequences which are to ensue in cases where an ordinary civil law contract is suspended by operation of a clause which sets an expiry date?
2. Is it compatible with the law of the European Union that the effectiveness, within the scope of its application, of a penalty benefits the employer who has acted wrongfully, to the detriment of the employee who has been wronged, in such a way that the temporal duration and the physical demands of the procedure directly damage the employee to the advantage of the employer, and the efficacy in remedial terms is inversely proportional to the length of the process, so far as almost to be cancelled out?
3. Within the scope of European Union law under Article 51 of the Charter [of Fundamental Rights], is it compatible with Article 47 of [that] Charter ... and Article 6 of the European Convention on Human Rights for the temporal duration and the physical demands of the procedure directly to damage the employee to the advantage of the employer and for the efficacy in remedial terms to be inversely proportional to the length of the procedure, so far as almost to be cancelled out?
4. In the light of the explanations given in Article 3(1)(c) of Directive 2000/78/EC ⁽²⁾ and Article 14(1)(c) of Directive 2006/54/EC, ⁽³⁾ does the notion of 'employment conditions' referred to in Clause 4 of Directive 1999/70/EC also cover the consequences ensuing from the unlawful interruption of an employment relationship?
5. In the event that [Question 4] is answered in the affirmative, is the difference between the consequences normally provided for under national law in relation to the unlawful interruption of a permanent employment relationship, on the one hand, and the consequences in the case of a fixed-term employment relationship, on the other, justifiable under Clause 4 [of Directive 1999/70/EC]?
6. On a proper construction of the general Community law principles of legal certainty, protection of legitimate expectations, equality of arms in proceedings, effective judicial protection, and the right to an independent and impartial tribunal and, more generally, to a fair hearing, guaranteed by Article 6(2) of the Treaty on European Union (as amended by Article 1(8) of the Treaty of Lisbon and to which Article 46 of the Treaty on European Union refers), read in conjunction with Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950,

and with Articles 46, 47 and 52(3) of the Charter of Fundamental Rights of the European Union, proclaimed at Nice on 7 December 2000, as implemented by the Treaty of Lisbon, do those principles preclude the adoption by the Italian State, after a significant period of time, of a provision (such as Article 32(7) of Law No 83/10 as interpreted by Article 1(13) of Law No 92/12) which alters the consequences of ongoing proceedings directly to the detriment of the employee and to the advantage of the employer, the result being that the efficacy in remedial terms is inversely proportional to the length of the process, so far as almost to be cancelled out?

7. In the event that the Court of Justice does not recognise the above principles as having the authority of fundamental principles of the European Union for the purposes of their horizontal application *erga omnes*, with the effect that a provision such as Article 32(5) to (7) of Law No 183/10 (as interpreted by Article 1(13) of Law No 92/12) is incompatible only with the obligations under Directive 1999/70/EC and the Charter [of Fundamental Rights], must a company such as the defendant company be regarded as a public body for the purposes of the direct, 'ascending' vertical application of European Union law and, in particular, of Clause 4 of Directive 1999/70/EC, and the Charter?
8. In the event that the Court of Justice ... answers Questions 1, 2, 3 or 4 in the affirmative, does the duty to cooperate in good faith — a fundamental principle of the European Union — make it possible for an interpretative provision, such as Article 1(13) of Law No 92/12, which makes it impossible to observe the principles confirmed by the answers to Questions 1 to 4, not to be applied?

⁽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 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16).

⁽³⁾ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) (OJ 2006 L 204, p. 23).

Request for a preliminary ruling from the Verwaltungsgerichtshof Baden-Württemberg (Germany) lodged on 28 February 2013 — U v Stadt Karlsruhe

(Case C-101/13)

(2013/C 156/30)

Language of the case: German

Referring court

Verwaltungsgerichtshof Baden-Württemberg

Parties to the main proceedings*Applicant:* U*Defendant:* Stadt Karlsruhe**Questions referred**

1. In accordance with the annex to Regulation (EC) No 2252/2004, ⁽¹⁾ must the personal data page of machine readable passports issued by the Member States satisfy all the compulsory specifications of Part 1 (Machine Readable Passports) of Document No 9303 of the ICAO? ⁽²⁾
2. If, in accordance with the Law on names of a Member State, a person's name comprises his first name and surname, are the Member States also entitled, in accordance with the annex to Regulation (EC) No 2252/2004, in conjunction with Point 8.6 of Section IV of Part 1 (Machine Readable Passports) of Document No 9303 of the ICAO, to enter the name at birth as a primary identifier in Field 6 of the machine readable personal data page of the passport?
3. If, in accordance with the Law on names of a Member State, a person's name comprises his first name and surname, are the Member States also entitled, in accordance with the annex to Regulation (EC) No 2252/2004, in conjunction with Point 8.6 of Section IV of Part 1 (Machine Readable Passports) of Document No 9303 of the ICAO, to enter the name at birth as a secondary identifier in Field 7 of the machine readable personal data page of the passport?
4. If either the second or third question is answered in the affirmative: is a Member State, in accordance with whose Law on names a person's name comprises his first name and surname, required, on the basis of the protection afforded to a person's name under Article 7 of the CFREU ⁽³⁾ and Article 8 ECHR, ⁽⁴⁾ to state, in the relevant caption of the machine readable personal data page of a passport, that the name at birth is also entered in that field?
5. If the fourth question is answered in the negative: by reason of the protection afforded to a person's name under Article 7 of the Charter of Fundamental Rights and Article 8 ECHR, is a Member State, in accordance with whose Law on names a person's name comprises his first name and surname and under whose Law on passports the fields on the machine readable personal data page of a passport are also to be given in English and French and in Field 6 of that page the name at birth is also to be provided on a single line, preceded by the abbreviation 'geb.' of the word 'geboren' (born), also required to provide a translation in English and French of the abbreviation 'geb.'?

6. If, in accordance with the Law on names of a Member State, a person's name comprises his first name and surname, are the Member States entitled, in accordance with the annex to Regulation (EC) No 2252/2004, in conjunction with Part 8.6 of Section IV of Part 1 (Machine Readable Passports) of Document No 9303 of the ICAO, to enter the name at birth as an optional item of personal data in Field 13 of the machine readable personal data page of the passport?

⁽¹⁾ Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States (OJ 2004 L 385, p. 1).

⁽²⁾ International Civil Aviation Organisation.

⁽³⁾ Charter of Fundamental Rights of the European Union.

⁽⁴⁾ The European Convention on Human Rights.

Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 8 March 2013 — ASL n. 5 'Spezzino' and Others v San Lorenzo Società Cooperativa Sociale, Croce Verde Cogema Cooperativa Sociale Onlus

(Case C-113/13)

(2013/C 156/31)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellants: ASL n. 5 «Spezzino», A.N.P.A.S. Associazione Nazionale Pubblica Assistenza — Comitato Regionale Liguria, Regione Liguria

Respondents: San Lorenzo Società Cooperativa Sociale, Croce Verde Cogema Cooperativa Sociale Onlus

Questions referred

1. Do Articles 49 TFEU, 56 TFEU, 105 TFEU and 106 TFEU preclude a provision of national law under which ambulance services are awarded, on a preferential basis, to voluntary associations, the Italian Red Cross and other authorised public institutions or bodies, albeit pursuant to agreements which provide only for reimbursement of expenditure that is actually incurred?