



Reports of Cases

Case C-649/22

XXX

v

Randstad Empleo ETT SAU and Others

(Request for a preliminary ruling from the Tribunal Superior de Justicia del País Vasco)

Judgment of the Court (Sixth Chamber) of 22 February 2024

(Reference for a preliminary ruling – Social policy – Directive No 2008/104/EC – Temporary agency work – Article 5(1) – Principle of equal treatment – Article 3(1)(f) – Concept of ‘basic working and employment conditions applicable to temporary agency workers’ – Concept of ‘pay’ – Compensation payable in respect of the total permanent incapacity of a temporary agency worker to carry out his or her usual occupation as a result of an accident at work which occurred during his or her assignment)

1. *Social policy – Temporary agency work – Directive 2008/104 – Equal treatment – Basic working and employment conditions applicable to temporary agency workers – Concept – Pay – Concept – Compensation payable in respect of the total permanent incapacity of a temporary agency worker to carry out his or her usual occupation as a result of an accident at work which occurred during his or her assignment in the user undertaking – Included*
(Art. 156 TFEU; Charter of Fundamental Rights of the European Union, Art. 31; European Parliament and Council Directive 2008/104, recital 1 and Arts 3(1)(f) and 5(1), first subpara., Council Directive 91/383)

(see paragraphs 48, 49, 55-58, 61, 63)

2. *Social policy – Temporary agency work – Directive 2008/104 – Equal treatment – National legislation providing for compensation in respect of the total permanent incapacity of a temporary agency worker to carry out his or her usual occupation as a result of an accident at work which occurred during his or her assignment in the user undertaking – Amount of compensation less than that paid to workers recruited directly by that undertaking, in the same situation and on the same basis – Not permissible – Obligation to interpret national legislation in conformity with EU law – Limits*
(European Parliament and Council Directive 2008/104, Arts 3(1)(f) and 5(1))

(see paragraphs 65, 70, 71, 73 and operative part)

See the text of the decision.