



C/2024/4831

12.8.2024

Judgment of the Court (Sixth Chamber) of 27 June 2024 (request for a preliminary ruling from the Consiglio di Stato – Italy) – AV, BT, CV, DW v Ministero della Giustizia

(Case C-41/23, ⁽¹⁾ Peigli ⁽²⁾)

(Reference for a preliminary ruling – Social policy – Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP – Clauses 2 and 4 – Principle of non-discrimination – Equal treatment in employment and occupation – Honorary members of the judiciary and ordinary members of the judiciary – Clause 5 – Measures intended to penalise improper use of fixed-term contracts – Directive 2003/88/EC – Article 7 – Paid annual leave)

(C/2024/4831)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicants: AV, BT, CV, DW

Defendant: Ministero della Giustizia

Operative part of the judgment

1. Article 7 of 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, and Clause 4 of the framework agreement on fixed-term work, concluded on 18 March 1999, set out in the annex to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP
must be interpreted as precluding national legislation which, in contrast to what it provides for ordinary members of the judiciary, does not give honorary members of the judiciary in a comparable situation any entitlement to remuneration during the holiday period when judicial activity is suspended, or to the benefit of compulsory social security and insurance protection against workplace accidents and illnesses.
2. Clause 5(1) of the framework agreement on fixed-term work, concluded on 18 March 1999, set out in the annex to Directive 1999/70
must be interpreted as precluding national legislation under which the employment relationship of honorary members of the judiciary may be renewed successively without there being any provision, in order to limit abuse of such renewals, for effective and dissuasive penalties or for the conversion of the employment relationship of those members of the judiciary into an employment relationship of indefinite duration.

⁽¹⁾ OJ C 127, 11.4.2023.

⁽²⁾ The name of the present case is a fictitious name. It does not correspond to the real name of any of the parties to the proceedings.