Case C-310/19 (P), Miscellaneous

Boudewijn Schokker – v – European Aviation Safety Agency (EASA), Appeal against the order of the General Court (Eighth Chamber) on 8 February 2019 in Case T-817/17

1. The appellant claims, first, that the General Court erred in law by dismissing the action on a ground that it had raised if its own motion and erroneously categorised as 'manifest'. When it did so, the General Court infringed Article 126 of its Rules of Procedure and the appellant's rights of defence.
2. The appellant submits, second, that the General Court erred in law by concluding that a verification of the grounds for the withdrawal of the offer of employment at issue was irrelevant, as an offer of employment can, in any case, be withdrawn at any moment without being subject to any conditions.

Case C-314/19, Transfer of undertakings

R.C.C. – v – M.O.L., reference lodged by the Tribunal Superior de Justicia de Castilla-La Mancha (Spain) on 16 April 2019

Does Article 1(1)(a) 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, and therefore the content of the directive, apply to a case in which a Notary, a public official who, in turn, is the private employer of the staff working for him, that relationship as employer being governed by general employment law and by the sectoral collective agreement, who replaces the previous departing Notary, taking over his Protocol, and who continues to provide that service at the same workplace, with the same material facilities, and who takes on the staff who worked for the previous Notary who ran that practice?

Case C-326/19, Fixed-term work

EB – v – Presidenza del Consiglio dei Ministri and Others, reference lodged by the Tribunale Amministrativo Regionale per il Lazio (Italy) on 23 April 2019

1. Although there is no general obligation on Member States to provide for the conversion of fixed-term employment contracts into contracts of indefinite duration, does Clause 5 of the framework agreement on fixed-term work annexed to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, headed 'Measures to prevent abuse', preclude, also in the light of the principle of equivalence, national legislation, such as that laid down in Article 29(2)(d) and (4) of Legislative Decree No 81 of 15 June 2015 and Article 36(2) and (5) Legislative Decree No 165 of 30 March 2001, which does not allow in respect of university researchers employed on a three-year fixed-term contract, which may be extended for two years pursuant to Article 24(3)(a) of Law No 240 of 2010, the subsequent establishment of a relationship of indefinite duration?
2. Although there is no general obligation on Member States to provide for the conversion of fixed-term employment contracts into contracts of unlimited duration, does Clause 5 of the framework agreement on fixed-term work annexed to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, headed 'Measures to prevent abuse', preclude, also in the light of the principle of equivalence, national legislation, such as that laid down in Article 29(2)(d) and (4) of Legislative Decree No 81 of 15 June 2015 and Article 36(2) and (5) Legislative Decree No 165 of 30 March 2001, from being applied by the national courts of the Member concerned in such a way that a right to maintain the employment relationship is granted to persons employed by public authorities under a flexible employment contract governed by the rules of employment law, but that right is not conferred, in general, on staff employed on fixed-term contracts by those authorities under administrative law, and (as a result of the above provisions of national

doi: 10.5553/EELC/187791072019004003019

law) no other effective measure is available under the national legal system to penalise such abuse with regard to workers?

3. Although there is no general obligation on Member States to provide for the conversion of fixed-term employment contracts into contracts of unlimited duration, does Clause 5 of the framework agreement on fixed-term work annexed to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, headed 'Measures to prevent abuse', preclude …, also in the light of the principle of equivalence, national legislation such as that laid down in Article 24(1) and (3) of Law No 240 of 30 December 2010, which provides for the conclusion and extension for a total period of five years (three years and a possible extension of two years) of fixed-term contracts between researchers and universities, making the conclusion of the contract subject to the availability of 'the resources for planning for the purposes of carrying out research, teaching, non-curricular activities and student service activities' and also making extension of the contract subject to a 'positive appraisal of the teaching and research activities carried out', without laying down objective and transparent criteria for determining whether the conclusion and renewal of those contracts actually meet a genuine need and whether they are capable of achieving the objective pursued and are necessary for that purpose, and therefore entails a specific risk of abusive use of such contracts, thus rendering them incompatible with the purpose and practical effect of the framework agreement?

Case C-341/19, Religious discrimination

MH Müller Handels GmbH – v – MJ, reference lodged by the Bundesarbeitsgericht (Germany) on 30 April 2019

1. Can established indirect unequal treatment on grounds of religion within the meaning of Article 2(2)(b) of Directive 2000/78/EC, resulting from an internal rule of a private undertaking, be justifiable only if, according to that rule, it is prohibited to wear any visible sign of religious, political or other philosophical beliefs, and not only such signs as are prominent and large-scale?
2. If Question 1 is answered in the negative:
   a. Is Article 2(2)(b) of Directive 2000/78/EC to be interpreted as meaning that the rights derived from Article 10 of the Charter of Fundamental Rights of the European Union and from Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms may be taken into account in the examination of whether established indirect unequal treatment on grounds of religion is justifiable on the basis of an internal rule of a private undertaking which prohibits the wearing of prominent, large-scale signs of religious, political or other philosophical beliefs?
   b. Is Article 2(2)(b) of Directive 2000/78/EC to be interpreted as meaning that national rules of constitutional status which protect freedom of religion may be taken into account as more favourable provisions within the meaning of Article 8(1) of Directive 2000/78/EC in the examination of whether established indirect unequal treatment on grounds of religion is justifiable on the basis of an internal rule of a private undertaking which prohibits the wearing of prominent, large-scale signs of religious, political or other philosophical beliefs?
3. If Questions 2(a) and 2(b) are answered in the negative: In the examination of an instruction based on an internal rule of a private undertaking which prohibits the wearing of prominent, large-scale signs of religious, political or other philosophical beliefs, must national rules of constitutional status which protect freedom of religion be set aside because of primary EU law, even if primary EU law, such as, for example, Article 16 of the Charter of Fundamental Rights, recognises national laws and practices?

Case C-344/19, Working time

DJ – v – Radiotelevizija Slovenija, reference lodged by the Vrhovno sodišče Republike Slovenije (Slovenia) on 2 May 2019

1. Must Article 2 of Directive 2003/88 be interpreted as meaning that, in circumstances such as those in the present case, stand-by duty, during which a worker performing his work at a radio and television transmission station must during the period he is not at work (when his physical presence at the workplace is not necessary) be contactable when called and, where necessary, be at his workplace within one hour, is to be considered working time?
2. Is the definition of the nature of stand-by duty in circumstances such as those of the present case affected by the fact that the worker resides in accommodation provided at the site where he performs his work (radio and television transmission station), since the geographical characteristics of the site make it impossible (or more difficult) to return home ('down the valley') each day?
3. Must the answer to the two preceding questions be different where the site involved is one where the

doi: 10.5553/EELC/187791072019004003019