

## ECJ Court Watch – Pending Cases

### Case C-749/22, Paid Leave

I GmbH – v – J R, reference lodged by the Bundesarbeitsgericht (Germany) on 7 December 2022

Must Article 7 of Directive 2003/88/EC and Article 31(2) of the Charter of Fundamental Rights of the European Union be interpreted as precluding national legislation or practice under which paid annual leave, which was requested by a worker and approved by the employer and which overlaps in time after the leave was approved with a government-ordered quarantine at home where a possible infection is suspected, may not be granted retroactively where the worker is not incapacitated for work on account of illness during that quarantine?

### Case C-796/22, Social Insurance, Part-time Work, Gender Discrimination

Instituto Nacional de la Seguridad Social (INSS) – v – Bernardino, reference lodged by the Tribunal Superior de Justicia de la Comunidad Valenciana (Spain) on 30 December 2022

1. Should the term ‘employment conditions’ used in Clause 4 of the Framework agreement on part-time work annexed to Council Directive 97/81/EC of 15 December 1997 (concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC) be interpreted as including partial retirement benefits from Social Security for which the beneficiaries can only be full-time workers, and not part-time workers?
2. Should the term ‘part-time workers’ used in Clauses 2 and 3 of [the Framework Agreement annexed to] Directive 97/81/EC be interpreted as including employees under a permanent seasonal contract (*contrato fijo-discontinuo*)?
3. Should Clause 4 of the Framework Agreement annexed to Directive 97/81/EC be interpreted as

precluding any legislation that prohibits part-time workers from receiving a partial retirement pension with a relief contract [*contrato de relevo*; a part-time contract covering hours not worked by employees taking partial retirement]), therefore constituting discrimination not justified on objective grounds in relation to full-time workers?

4. Should Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security be interpreted as precluding regulations, such as the Spanish national regulations, that prevent persons working part-time from being beneficiaries and therefore from receiving a partial retirement pension (with the concurrent conclusion of a relief contract), thereby constituting discrimination on grounds of sex which is not justified on objective grounds?

### Case C-8/23, Free Movement

FH – v – Conseil national de l'ordre des médecins, reference lodged by the Conseil d'État (France) on 12 January 2023

May a doctor who is a national of one of the Member States of the European Union and who holds evidence of a formal qualification as a specialised doctor issued in a Member State as referred to in point 5.1.2 of Annex V to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, rely, in another Member State, on the basis of that qualification alone, on the system for the automatic recognition of formal qualifications set out in Article 21 of that directive, even though he or she holds evidence of a formal qualification in basic medical training issued by a third State which has been recognised only by the Member State in which he or she obtained the diploma as a specialised doctor and which is not among those referred to in point 5.1.1 of Annex V to that directive, and Article 25(4) of the directive makes the issuance of evidence of a formal qualification as a specialised doctor contingent on possession of evidence of one of those formal qualifications in basic medical training?