

## **Information about the follow up to the complaint registered under reference CHAP(2015)1071 – Update of September 2021**

The European Commission has received a substantial number of complaints about the possible incompatibility of the working conditions of honorary magistrates in Italy with various provisions of EU labour law.

The Commission has entered these complaints in the central registry of complaints under the reference number CHAP(2015)1071.

After careful assessment, the Commission services concluded that there were grounds to open infringement proceedings against Italy. In the Commission's view, the Italian legislation fails to comply with several provisions of the Framework Agreement annexed to Directive 1999/70/EC on fixed-term work; the Framework Agreement annexed to Directive 97/81/EC on part-time work; Directive 2003/88/EC on Working Time, and Directive 92/85/EEC on Pregnant Workers. Several categories of honorary magistrates, i.e. honorary justices of the peace (*giudice onorario di pace*), honorary deputy prosecutors (VPO), and honorary court judges (GOT), do not enjoy the status of a ‘worker’ under Italian national law, but are considered volunteers providing services on an ‘honorary’ basis.

Because of this lack of worker status, they do not enjoy the protection of EU labour law. These include the lack of allowances in case of illness, accidents, and pregnancy, the obligation to register with the National Social Welfare Institution fund for self-employed workers, differences in pay and modalities of pay, tax discrimination, no reimbursement of legal expenses incurred during disciplinary proceedings, and the lack of paid maternity leave. It is the Commission’s view that they are also not sufficiently protected against the abuse of successive fixed-term contracts, and that they do not have the possibility to obtain proper compensation for such abuse. Furthermore, the information available indicates that Italy has not set up a system to measure the daily working time of each honorary magistrate. Italy adopted new legislation in 2017, which did not resolve these concerns.

Based on the above, and as the Court of Justice of the European Union recently confirmed, in case C-658/18 UX<sup>1</sup>, that these honorary magistrates should have worker status, the Commission decided, on 15 July 2021, to open an infringement procedure against Italy for failure to comply with EU labour law. Italy will have two months to reply to the letter of formal notice sent by the Commission and take the necessary measures to comply with EU law, otherwise, the Commission may decide to send a reasoned opinion and ultimately bring Italy to the Court of Justice of the European Union.

The Commission will keep the complainants informed through this website of the follow-up given to their complaints.

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<sup>1</sup> CJEU, C-658/18, *UX v Governo della Repubblica italiana*, ECLI:EU:C:2020:572.