

Information about the follow up to the complaint registered under reference CHAP(2015)1071 – Update of July 2022

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 reference number CHAP(2015)1071.

On 16 July 2020, the Court of Justice held, in case C-658/18 UX¹, that these honorary magistrates should have worker status. On 7 April 2022, in case C-236/20², the Court of Justice recalled its previous judgment and held that, should honorary magistrates be in a comparable situation as ordinary judges, they would be entitled to equal treatment in terms of paid annual leave and social security protection.

On 15 July 2021, the Commission decided to open an infringement procedure by sending a letter of formal notice to Italy as its national legislation applying to honorary magistrates did not fully comply with EU labour law. In the Commission's view, the Italian legislation failed 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. They are also not sufficiently protected against the abuse of successive fixed-term contracts, and they do not have the possibility to obtain proper compensation for such abuse. Furthermore, Italy has not set up a system to measure the daily working time of each honorary magistrate.

Italy adopted new legislation in December 2021, which did not resolve these concerns. New provisions applicable to certain honorary magistrates were introduced, raising still issues of compliance with EU law. Therefore, the Commission issued on 15 July 2022 an additional letter of formal notice to Italy. Since the contested national legislation had changed, for procedural reasons it was not possible to issue a Reasoned Opinion at this stage.

Italy will have two months to take the necessary measures, otherwise, the Commission may decide to send a reasoned opinion.

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

² CJEU C-236/20, *PG v Ministero della Giustizia*, ECLI:EU:C:2022:263

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