



Press and Information

Court of Justice of the European Union
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Judgment in Case C-238/14
Commission v Luxembourg

Luxembourg has failed, in the case of occasional workers in the entertainment arts, to fulfil its obligation to prevent the abuse of fixed-term employment contracts

Luxembourg law makes no provision as regards objective reasons justifying the successive use of such contracts

In order to prevent the abusive use of successive fixed-term contracts, the framework agreement on fixed-term work¹ requires Member States, where there are no equivalent statutory measures to prevent abuse, to indicate objective reasons capable of justifying the renewal of contracts, or to determine the maximum total duration of a series of successive fixed-term employment contracts or to limit the number of times that those contracts may be renewed.

Luxembourg law provides that the duration of fixed-term contracts may not, in respect of the same employee, exceed 24 months inclusive of renewals. A separate provision of Luxembourg law provides, however, that fixed-term contracts concluded by occasional workers in the entertainment arts may be renewed more than twice, even for a total duration exceeding 24 months, without being deemed to be permanent contracts. As justification for this, Luxembourg argues that occasional workers in the entertainment arts participate in individual projects which are limited in time and that, accordingly, the temporary recruitment needs of employers constitute an 'objective reason' justifying the renewal of fixed-term contracts.

According to the Commission, in the case of occasional workers in the entertainment arts, Luxembourg law does not require any objective reason, enabling the abusive use of successive fixed-term contracts to be prevented. The Commission therefore brought an action before the Court of Justice against Luxembourg for failure to fulfil its obligations.

In today's judgment, the Court finds that the **renewal of successive fixed-term contracts concluded with occasional workers in the entertainment arts does not, under Luxembourg law, require justification by reference to an 'objective reason'**. The Court finds that Luxembourg has not explained how the national legislation requires occasional workers in the entertainment arts to engage in their professional activities on a temporary basis. Accordingly, employers are able to conclude successive fixed-term contracts with workers in that category in order to meet not only temporary staffing needs but also lasting and permanent staffing needs. Even supposing that Luxembourg law pursues the objective invoked by Luxembourg (namely, to provide occasional workers in the entertainment arts with a measure of flexibility and social benefits by making it possible for employers to recruit those workers on the basis of recurring fixed-term employment contracts), such an objective does not prove the existence of precise and concrete circumstances characterising the activity of occasional workers in the entertainment arts and therefore justifying, in that particular context, the use of successive fixed-term contracts.

NOTE: An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under European Union law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

¹ The agreement is 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 (OJ 1999 L 175, p. 43).

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Christopher Fretwell ☎ (+352) 4303 3355