



9.7.2020

NOTICE TO MEMBERS

Subject: Petition No 0773/2019 by S.B. (Greek) on supposedly unequal treatment on the base of disability of a family member

1. Summary of petition

The petitioner's family members – father and brother – are disabled persons. As a person indirectly disabled for many years he has tried to find an employment through the OAED (Hellenic Manpower Employment Organisation) or by ASEP (Supreme Council for Civil Personnel Selection) based on the law protecting vulnerable social groups. His application from his perspective was not properly treated and he was not successful. The petitioner quotes regulations adopted by Greece in 1994, 1998 and 2016 dealing with professional employment and reemployment of disadvantaged persons. He states that provisions of law are not following the Principle of Equal Treatment and International Conventions on the Rights of Person with Disabilities nor International Labour Convention, and that the Greek authorities have not properly implemented the EU Equality Framework Directive (78/2008).

2. Admissibility

Declared admissible on 18 December 2019. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 9 July 2020

Council Directive 2000/78/EC¹ prohibits discrimination on the grounds of a number of exhaustively enumerated grounds including disability, with a view to putting into effect in the Member States the principle of equal treatment in the areas of employment and occupation. The Directive does not impose on Member States to take measures of positive action but merely

¹ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ L 303, 2.12.2000, p. 16–22.

allows them to adopt or maintain measures aimed at creating or maintaining provisions or facilities for safeguarding or promoting the integration of disabled persons into the working environment (Article 7(2) of the Directive). Member States which opt to take advantage of this provision may, as long as they comply with the requirements of the Directive, regulate the concrete modalities of the national measures aiming at promoting the integration of disabled persons, including as regards the conditions for their eligibility.

In this context, in the Commission's view, the Greek provisions cited by the petitioner that determine the modalities for the attribution of the quotas for special categories of persons do not violate Council Directive 2000/78/EC. Indeed, since these provisions benefit to members of the family of persons with a disability (and not to persons with a disability themselves), they do not seem to be covered by Council Directive 2000/78/EC which, as indicated, provides for the possibility of Member States to take measures to promote the *integration of disabled persons into the working environment* (our emphasis).

Therefore, the Greek measures at issue are regulated by national (Greek) law rather than EU law.

As regards the United Nations Convention on the Rights of Persons with Disabilities, this Convention applies to the EU within the limits of the latter's competence. In accordance with Court of Justice of the European Union case-law², this Convention is programmatic and, consequently, its provisions are subject to the adoption of subsequent measures which are the responsibility of the Contracting Parties, i.e. the EU and/or its Member States, within the limits of the competence of each one. As indicated above, there is no EU law regarding quota to the benefit of the members of the family of persons with a disability.

Finally, conventions concluded within the framework of the International Labour Organisation (ILO) do not form part of EU law. Therefore, the compatibility of national measures with them has to be assessed by the competent national courts of the Member State concerned (who has ratified them) and/or the ILO institutions which are competent for their implementation and enforcement.

Conclusion

There does not seem to be any violation of EU law in the present case. Since the issue raised by the petitioner is regulated by Greek law, it is suggested that he pursues his efforts before the competent national authorities.

² See, in particular, CJEU judgment of 18.03.2014 in case C-363/12, Z, paras 88ff.