



5.2.2024

NOTICE TO MEMBERS

Subject: Petition No 0695/2023 by Mariaflora Di Giovanni (Italian), on behalf of the National Union of Justices of the Peace (UNAGIPA), on the presumed breach by Italy of the EU directive on working conditions with regard to honorary judges

1. Summary of petition

The petitioner points out that the Italian honorary judiciary has special features which clearly distinguish it from the European honorary judiciary: the Italian honorary judge has the same functions as the professional court judge (as stated by the Italian Constitutional Court in its judgment 267 of December 2020), is employed on an extensive and daily basis in the same affairs as permanent colleagues and is bound by the same duties and service orders. However, the infringements found in the letters of formal notice by the European Commission in relation to the six conditions of employment continue to be very serious, affecting the third-party status, independence and impartiality of that judicial office. The petitioner points out that, according to the European Commission, they are treated unequally in relation to protection for pregnancy, illness and accident, social security and pay, tax, annual leave, reimbursement of legal costs and disciplinary proceedings. She considers that no application has been made of the rules specific to comparable workers, as highlighted by the European Commission in its letters of formal notice of 2021 and 2022, i.e. robed judges, and that all the discrimination identified by the Commission in its first letter of formal notice (July 2021) exists for the entire category, despite the attempt to stabilise the duties provided for by Law No 234/21. With regard to the current state of affairs for Italian honorary judges – out of 4 500 units in service – 1 600 honorary judges have been given permanent contracts, pursuant to Article 29 of Legislative Decree 116/2017, as amended by the 2021 reform, many of whom have been without pay for months, while others are receiving nothing more than advances and the remaining – approximately 3000 – are still on piecemeal rates, until a date yet to be set. In the two most recent rulings of May 2023 by the Court of Cassation, not only do the CJEU's pronouncements not apply, they are not even mentioned. Lastly, the productivity figures for

the ordinary judiciary that the Ministry of Justice sent to Brussels fail to include honorary judges. The petitioner therefore calls for the EU institutions to take action to put an end to the irregular employment of 4500 Italian honorary judges (GDP GOT and VPO) and hopes that the European Commission will proceed with a reasoned opinion against Italy.

2. Admissibility

Declared admissible on 27 October 2023. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 5 February 2024

The Commission's observations

The petitioner refers to an ongoing infringement procedure on the working conditions of honorary magistrates in Italy (infringement n. (2016)4081) and asks the Commission to issue a reasoned opinion in the framework of that procedure, given that the Italian authorities have not taken any measures to comply with EU law. The Commission would like to inform the petitioner that a reasoned opinion was sent to Italy on 14 July 2023¹. The Italian authorities requested an extension of the deadline to reply, until 14 December 2023. They have sent three replies, which are currently being assessed.

The petitioner also refers to the fact that the measures regarding the reform of the justice system included in the Recovery and Resilience National Plan do not include the honorary judiciary. She further considers that the productivity figures submitted by Italy do not reflect the work of honorary magistrates. In this regard, the Commission would like to clarify that the RRP aims at improving the productivity of courts at large; it does not include reforms or investments addressing the situation of honorary judges or explicitly referring to the productivity of judges. As such, there is no basis for distinguishing data on the productivity of honorary judges from data on the productivity of ordinary judges. The Italian Recovery and Resilience plan focuses on the reduction of disposition time for civil and criminal courts and on the reduction of backlog for the civil justice system. Nonetheless, the Commission takes notes of the significant contribution of honorary judges to the productivity targets.

Conclusion

The Commission sent a reasoned opinion to Italy on 14 July 2023 in the framework of the ongoing infringement (2016)4081 and is assessing the replies received.

As regards the Recovery and Resilience National Plan, the RRP does not include reforms or investment addressing the situation of honorary judges or explicitly referring to the productivity of judges. There is no basis for treating productivity of honorary judges differently from that of ordinary judges.

¹ [July Infringements package: key decisions \(europa.eu\)](#)