ECLI:EU:C:2022:530

JUDGMENT OF THE COURT (Seventh Chamber)

7 July 2022 (*)

(Reference for a preliminary ruling – Social policy – Directive 97/81/EC – Framework Agreement on part-time work – Clause 4 – Principle of non-discrimination – Principle of pro rata temporis – Taking into account, for the purpose of calculating the remuneration of a full-time professional firefighter, the length of service for remuneration purposes which he has acquired as a volunteer firefighter, in accordance with the principle of pro rata temporis)

In Case C-377/21,

REQUEST for a preliminary ruling under Article 267 TFEU from the cour du travail de Mons (Mons Higher Labour Court, Belgium), made by decision of 15 June 2021, received at the Court on 21 June 2021, in the proceedings

Ville de Mons,

Zone de secours Hainaut-Centre

v

RM,

THE COURT (Seventh Chamber),

composed of J. Passer, President of the Chamber, N. Wahl and M.L. Arastey Sahún (Rapporteur), Judges,

Advocate General: J. Richard de la Tour,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– the city of Mons, by N. Fortemps and O. Vanleemputten, avocats,

– RM, by P. Joassart, avocat,

– the European Commission, by D. Martin and D. Recchia, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Clause 4 of the Framework Agreement on part-time work concluded on 6 June 1997 ('the Framework Agreement') which is annexed to Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC (OJ 1998 L 14, p. 9).

2 The request has been made in proceedings between RM, a professional firefighter, the city of Mons (Belgium) and the Zone de secours Hainaut-Centre (Hainaut-Central Rescue Area, Belgium) concerning the account to be taken of his length of service, acquired as a volunteer firefighter, for the purposes of calculating his remuneration.

Legal context

European Union law

3 Clause 1(a) of the Framework Agreement states that the purpose of that agreement is 'to provide for the removal of discrimination against part-time workers and to improve the quality of part-time work'.

4 Clause 2 of the Framework Agreement provides:

'1. This Agreement applies to part-time workers who have an employment contract or employment relationship as defined by the law, collective agreement or practice in force in each Member State.

2. Member States, after consultation with the social partners in accordance with national law, collective agreements or practice, and/or the social partners at the appropriate level in conformity with national industrial relations practice may, for objective reasons, exclude wholly or partly from the terms of this Agreement part-time workers who work on a casual basis. Such exclusions should be reviewed periodically to establish if the objective reasons for making them remain valid.'

5 Clause 3 of the Framework Agreement states:

'For the purpose of this agreement:

1. The term "part-time worker" refers to an employee whose normal hours of work, calculated on a weekly basis or on average over a period of employment of up to one year, are less than the normal hours of work of a comparable full-time worker.

2. The term “comparable full-time worker” means a full-time worker in the same establishment having the same type of employment contract or relationship, who is engaged in the same or a similar work/occupation, due regard being given to other considerations which may include seniority and qualification/skills.

Where there is no comparable full-time worker in the same establishment, the comparison shall be made by reference to the applicable collective agreement or, where there is no applicable collective agreement, in accordance with national law, collective agreements or practice.’

6 Clause 4 of the Framework Agreement provides:

‘1. In respect of employment conditions, part-time workers shall not be treated in a less favourable manner than comparable full-time workers solely because they work part-time unless different treatment is justified on objective grounds.

2. Where appropriate, the principle of *pro rata temporis* shall apply.

…’

Belgian law

The Law of 5 March 2002

7 Directive 97/81 was transposed into Belgian law by the Law of 5 March 2002 concerning the principle of non-discrimination in favour of part-time workers (*Moniteur belge* of 13 March 2002, p. 10641, ‘the Law of 5 March 2002’). According to Article 2, that law applies only to an employee who, under an employment contract, performs work for remuneration and under the authority of another person, that is to say, to an employee bound by an employment contract.

The Royal Decree of 20 March 2002, as amended by the Royal Decree of 2 June 2006

8 In accordance with Article 1 of the Royal Decree of 20 March 2002 laying down general provisions relating to the valuation for remuneration purposes of previous service undertaken by voluntary members of public fire services recruited as professional members (*Moniteur belge* of 30 March 2002, p. 13592), as amended by the Royal Decree of 2 June 2006 (*Moniteur belge* of 22 June 2006, p. 31874):

‘Volunteer staff in the public fire services, recruited as professional members … shall receive the remuneration corresponding to the grade in which they were recruited.

… for the purposes of calculating that remuneration, professional fire services staff recruited from 9 April 2002 shall be awarded a length of service equivalent to the number of years of service undertaken as a volunteer within the public fire service.

… years of service equivalent to the number of years undertaken on a voluntary basis in a public fire service may be awarded to professional fire services staff who entered into service before 9 April 2002 for the purpose of calculating their remuneration. That valuation for remuneration purposes is applicable only to services provided after 1 January 2005.’

9 It is apparent from the drafting history relating to the amendment of Article 1 by the Royal Decree of 2 June 2006 that it ‘allows municipalities, but without, however, requiring them to do so,

to grant firefighters who have become professional before the entry into force of the Royal Decree, a length of service which takes account of all of the years worked on voluntary basis. It follows that firefighters do not all automatically enjoy that length of service. … Taking into account its financial options, each municipality may decide whether or not to apply the new regulation'.

The Administrative and Financial Statutes of the city of Mons

10 Article 12 of the Administrative and Financial Statutes of the non-teaching staff of the city of Mons ('the Administrative and Financial Statutes of the city of Mons') provides:

'Eligible services performed on a full-time basis … may be taken into account in their entirety.

Eligible services performed on a part-time basis … may be taken into account in respect of the number of years which they would represent if they had been performed on a full-time basis multiplied by a fraction the numerator of which is the actual number of weekly working hours and the denominator of which is the number of weekly working hours corresponding to full-time work.'

11 Article 13a of those Statutes is worded as follows:

'With effect from 1 July 2007 and pursuant to [the Royal Decree of 20 March 2002, as amended by the Royal Decree of 2 June 2006], the professional members of the fire service recruited shall be awarded, for the purpose of calculating their remuneration, a length of service equivalent to the number of years of service undertaken as a volunteer within a public fire service subject to the following rules:

1. for staff who entered before 09/04/2002: in proportion to the services actually performed (number of hours actually worked/year, in accordance with the provisions of Article 12 of the Financial Statute);

2. for staff who entered after 09/04/2002: without taking account of the volume of services (by way of derogation from the provisions stipulating that eligible services are to be recovered in proportion to the volume of the services provided: Article 12 of the Financial Statute),

…'

12 Article 14(1) of the Administrative and Financial Statutes of the city of Mons provides:

'Full or incomplete service in the private sector in Belgium, another Member State of the European Union or the European Economic Area shall also be eligible, under the same conditions, up to a maximum of six years, for the purpose of calculating the salary, provided that it may be regarded as directly useful, that is to say that it has given the staff member experience which is beneficial to the performance of the duties carried out in the Administration …'

The dispute in the main proceedings and the question referred for a preliminary ruling

13 During the period from 1 January 1982 to 31 July 2002, RM was recruited as a volunteer firefighter by the ville de Mouscron (City of Mouscron (Belgium)).

14 During that period, he worked as a heavy goods vehicle driver under private sector employment contracts from 30 July 1990 to 11 February 1995 and from 23 March 1995 to 8 February 1998, as well as a guard from 9 February 1998 to 30 March 2001.

15 RM was appointed as a professional firefighter-driver at the city of Mons on a probationary basis, with effect from 1 April 2001, then on a definitive basis from 1 April 2002.

16 For the purposes of calculating the remuneration of professional firefighters, their 'length of service' is taken into account, which is determined on the basis of the recognition, under certain conditions, of the length of service they have provided in the public and private sectors.

17 In accordance with the Administrative and Financial Statutes of the city of Mons, the latter granted RM, in respect of the period preceding his appointment as a professional firefighter-driver, the following length of service for remuneration purposes:

– for the period from 1 January 1982 to 29 July 1990: 3 months and 17 days, corresponding pro rata to the 811 hours working hours actually undertaken as a volunteer firefighter in the fire service of Mouscron (in accordance with Article 13a of the Administrative and Financial Statutes of the city of Mons), and

– for the period from 30 July 1990 to 30 March 2001: six years, corresponding to the maximum duration which may be accounted for in respect of services performed in the private sector (as provided for in Article 14 of the Administrative and Financial Statutes of the city of Mons).

18 On 1 January 2015, the fire services in Belgium went from a municipal organisation to a 'zonal' system, comprising of 34 'rescue zones'; professional fire fighters working in a municipality became members of the operational staff of the rescue zones to which that municipality belongs.

19 Thus, from that date, RM became a firefighter within the Hainaut-Central Rescue Area, which applied to him the same length of service for remuneration purposes as that previously granted to him by the city of Mons.

20 On 14 July 2015, RM requested the Hainaut-Central Rescue Area to adjust the amount of his remuneration on the ground that his length of service for remuneration purposes, acquired as volunteer firefighter, had not been taken into account correctly. He requested that account be taken in full of the period during which he worked as a volunteer firefighter, that is to say, from 1 January 1982 to 31 July 2002, which corresponds to a total of 20 years and 7 months, without taking into account the precise volume of his services. He took the view that the accreditation of that work under the principle of *pro rata temporis* amounted to creating an unjustified difference in treatment between full-time workers and part-time workers. He thus claimed that he was entitled to annual remuneration corresponding to the highest step, namely that relating to a length of service of 25 years or more, in so far as, taking into account all his years of service as a volunteer firefighter, his length of service was, as of 1 January 2015, 33 years.

21 By decision of 3 February 2016, the Hainaut-Central Rescue Area rejected that application for rectification on the basis of Article 13a of the Administrative and Financial Statutes of the city of Mons, finding that, since RM had entered into service before 9 April 2002, his length of service for remuneration purposes acquired as a volunteer firefighter had to be taken into account only in proportion to the work actually performed.

22 Furthermore, on 15 April 2016 RM claimed from the city of Mons arrears of remuneration due from his entry into service, putting forward arguments essentially identical to those put forward in support of the application for rectification lodged with the Hainaut-Central Rescue Area.

23 On 6 May 2016, the city of Mons rejected that complaint on essentially identical grounds as those put forward by the Hainaut-Central Rescue Area and set out in paragraph 21 of this judgment, namely the obligation, under the Administrative and Financial Statutes of the city of Mons, to accredit the years of service completed as a volunteer firefighter in proportion to the services actually provided.

24 On 23 May 2016 RM brought an action before the tribunal du travail du Hainaut, division de Mons (Hainaut Labour Court, Mons Division, Belgium) against the city of Mons and the Hainaut-Central Rescue Area.

25 By judgment of 25 February 2019, that court allowed RM's application and held that the years of service which RM had completed as a volunteer firefighter had to be fully recognised in the determination of his length of service for remuneration purposes, without taking into account the volume of work actually performed by RM.

26 The city of Mons and the Hainaut-Central Rescue Area appealed against that judgment before the referring court, the cour du travail de Mons (Mons Higher Labour Court, Belgium).

27 That court observes that it is apparent from a judgment of the Cour constitutionnelle (Constitutional Court, Belgium) of 9 July 2013 that volunteer firefighters and professional firefighters perform similar tasks within the same body and that, therefore, they constitute comparable categories. In the words of that judgment 'the volunteer firefighters give up part of their free time to a fire service to which they have made a commitment …; they receive an allowance, pro rata, proportionate to the number of hours worked, which is based, at least, on the average hourly salary for professional staff of the same grade …, and which is subject to a special social security scheme'. It is also apparent from that judgment that volunteer firefighters carry out, on a voluntary basis, an activity ancillary to an occupational activity or another form of employment and are, for that purpose, subject to a different working time and work scheme from that of professional firefighters.

28 Furthermore, the Belgian courts, and in particular the Conseil d'État (Council of State, Belgium), have stated that the activity of volunteer firefighters is an ancillary activity which forms part of an employment relationship that is governed by specific rules and is non-contractual in nature.

29 According to the referring court, the determination of the length of service of part-time workers falls within the scope of Clause 4 of the Framework Agreement, since remuneration is one of the 'employment conditions' within the meaning of that clause, as is apparent from the judgment of 10 June 2010, *Bruno and Others* (C-395/08 and C-396/08, EU:C:2010:329).

30 In that context, the referring court also points out that, even if the national legislation which transposed that Framework Agreement into the Belgian legal system, namely the Law of 5 March 2002, applies only to workers bound by an employment contract, it nevertheless takes the view that volunteer firefighters fall within the scope of that Framework Agreement, in that their employment relationship is defined by national law, within the meaning of Clause 2.1 of the Framework Agreement.

31 In addition, the fact that RM's work is, since his appointment as a professional firefighter, performed under a full-time work scheme does not in any way prevent him from relying, as regards the determination of his length of service for remuneration purposes for a period during which he worked part-time, on legislation relating to part-time workers.

32 That being said, the referring court has doubts as to the interpretation of Clause 4 of the Framework Agreement, and in particular as to the scope of the principle of *pro rata temporis*, for the purposes of determining RM's length of service for remuneration purposes.

33 In those circumstances, the la cour du travail de Mons (Mons Higher Labour Court), decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Is Clause 4 of the Framework Agreement … to be interpreted as not precluding national legislation which, for the purposes of calculating the remuneration of professional firefighters employed on a full-time basis, accredits, in respect of the length of service for remuneration purposes, the services provided on a part-time basis as a volunteer firefighter according to the volume of work, that is to say the duration of the services actually provided, in line with the principle of "*pro rata temporis*", and not according to the period over which the services were provided?'

Consideration of the question referred

34 By its question, the referring court asks, in essence, whether Clause 4 of the Framework Agreement must be interpreted as precluding national legislation which, for the calculation of the remuneration of professional firefighters employed on a full-time basis, accredits, in respect of the length of service for remuneration purposes, the work which they previously performed on a part-time basis as volunteer firefighters, in line with the principle of *pro rata temporis*, that is to say, according to the work actually performed, and not according to the period during which that work was performed.

35 In the first place, it is necessary to determine whether the dispute in the main proceedings falls within the scope of the Framework Agreement.

36 In that regard, it is important to point out, first, that the scope *ratione personae* of the Framework Agreement is defined in Clause 2.1 thereof (judgment of 1 March 2012, *O'Brien*, C-393/10, EU:C:2012:110, paragraph 28). According to that provision, the agreement applies 'to part-time workers who have an employment contract or employment relationship as defined by the law, collective agreement or practice in force in each Member State.'

37 The Court has held that the concept of 'part-time workers who have an employment contract or employment relationship' must be interpreted in accordance with national law (judgment of 1 March 2012, *O'Brien*, C-393/10, EU:C:2012:110, paragraph 32). Furthermore, it is clear from the wording of Clause 2.1 of the Framework Agreement that the agreement is intended to be broad in scope. In addition, the definition of 'part-time workers' for the purposes of the Framework Agreement, set out in Clause 3.1, encompasses all workers without drawing a distinction according to whether their employer is in the public, or private, sector (judgment of 1 March 2012, *O'Brien,* C-393/10, EU:C:2012:110, paragraph 37 and the case-law cited).

38 In the present case, the referring court observes that the national legislation transposing the Framework Agreement into the Belgian legal system, namely the Law of 5 March 2002, applies only to workers bound by an employment contract. The Belgian courts have stated that the activity of volunteer firefighters forms part of an employment relationship governed by specific rules and is non-contractual in nature.

39 However, in the light of the case-law cited in paragraphs 36 and 37 above, it must be held that, as the referring court points out, volunteer firefighters are covered by the Framework

Agreement, in that their employment relationship is defined by national law, within the meaning of Clause 2.1 of that Framework Agreement.

40 In the second place, Clause 4.1 of the Framework Agreement provides, with regard to employment conditions, that part-time workers are not to be treated in a less favourable manner than comparable full-time workers solely because they work part-time unless different treatment is justified on objective grounds.

41 In the dispute in the main proceedings, RM challenges the method used to calculate the remuneration due to him as a professional firefighter, that is to say, as a full-time worker. That being said, he alleges a difference in treatment contrary to Clause 4 of the Framework Agreement, in that the application of the rules relating to the taking into account of his length of service for remuneration purposes in respect of a period during which he worked part-time as a volunteer firefighter would have a negative impact on the amount of that remuneration.

42 In that regard, it should be noted that the Court has held that the aim of the Framework Agreement is, first, to promote part-time work and, second, to eliminate discrimination between part-time workers and full-time workers (judgments of 10 June 2010, *Bruno and Others*, C-395/08 and C-396/08, EU:C:2010:329, paragraph 24, and of 5 May 2022, *Universiteit Antwerpen and Others*, C-265/20, EU:C:2022:361, paragraph 41).

43 In the light of those objectives, Clause 4 of the Framework Agreement must be interpreted as articulating a principle of European Union social law which cannot be interpreted restrictively (judgment of 10 June 2010, *Bruno and Others*, C-395/08 and C-396/08, EU:C:2010:329, paragraph 32 and the case-law cited).

44 The mere fact that a worker has obtained the status of full-time worker does not mean that, in certain circumstances, he or she cannot rely on the principle of non-discrimination laid down in Clause 4 of the Framework Agreement, where the discrimination claimed concerns periods completed as a part-time worker (see, by analogy, as regards the Framework Agreement on fixed-term work concluded on 18 March 1999 (‘the Framework Agreement on fixed-term work’), which is annexed 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), judgment of 18 October 2012, *Valenza and Others*, C-302/11 to C-305/11, EU:C:2012:646, paragraphs 34 and 35 and the case-law cited).

45 The automatic exclusion of the application of the Framework Agreement in a situation such as that in the main proceedings would, in disregard of the objective attributed to that Clause 4, effectively reduce the scope of the protection against discrimination for the workers concerned and would give rise to an unduly restrictive interpretation of the clause, contrary to the case-law of the Court (see, by analogy, as regards the Framework Agreement on fixed-term work, judgment of 18 October 2012, *Valenza and Others*, C-302/11 to C-305/11, EU:C:2012:646, paragraph 37 and the case-law cited).

46 Consequently, the Framework Agreement is applicable to the dispute in the main proceedings, since RM, although now employed full-time, relies on that Framework Agreement in respect of a period during which he worked part-time.

47 In the third place, in its written observations, the Commission contends, referring to Clause 2.2 of the Framework Agreement, that RM is not covered by the concept of ‘part-time worker’,

within the meaning of that Framework Agreement, on account of the occasional nature of his activity.

48 In that regard, it should be noted that it is true that Clause 2.2 of the Framework Agreement allows Member States or social partners to exclude, wholly or partly, from the terms of the Framework Agreement part-time workers who work on a casual basis. However, such an exclusion is in no way automatic, since it is subject, as the Commission acknowledges, to a number of procedures and conditions.

49 There is nothing in the order for reference nor in the written observations submitted to the Court to support the conclusion that the Kingdom of Belgium used the option provided for in that provision. In any event, it is not for the Court of Justice but for the referring court to make such determinations as may be necessary in order to verify whether that is the situation in the main proceedings (see, to that effect, judgment of 12 October 2004, *Wippel*, C-313/02, EU:C:2004:607, paragraph 39).

50 In the light of the foregoing considerations, it must be held that that dispute falls within the scope of the Framework Agreement.

51 Secondly, for the purposes of interpreting Clause 4 of the Framework Agreement, it is appropriate to examine, first, whether the length of service for remuneration purposes at issue in the main proceedings falls within the concept of 'employment conditions' within the meaning of Clause 4.1.

52 In that regard, the Court has already held that financial conditions such as those relating to remuneration fall within that concept (see, to that effect, judgment of 10 June 2010, *Bruno and Others*, C-395/08 and C-396/08, EU:C:2010:329, paragraph 33).

53 Furthermore, in establishing both the constituent elements of remuneration and the level of those constituent parts, the competent national bodies must apply to part-time workers the principle of non-discrimination as laid down in Clause 4 of the Framework Agreement (judgment of 10 June 2010, *Bruno and Others*, C-395/08 and C-396/08, EU:C:2010:329, paragraph 40), while at the same time taking account, where appropriate, of the principle of *pro rata temporis* (judgment of 10 June 2010, *Bruno and Others*, C-395/08 and C-396/08, EU:C:2010:329, paragraph 38).

54 In the present case, it is apparent from the order for reference that account is taken of the length of service for remuneration purposes in the determination of the remuneration of professional firefighters, with the result that it constitutes a decisive factor in the level of that remuneration.

55 Consequently, the length of service for remuneration purposes at issue in the main proceedings falls within the concept of 'employment conditions' within the meaning of Clause 4 of the Framework Agreement.

56 Next, in order to assess whether the detailed rules for taking into account the length of service for remuneration purposes at issue in the main proceedings meet the requirements of Clause 4 of the Framework Agreement, it should be borne in mind that the requirement of equivalence between full-time and part-time workers in respect of working conditions, arising from the principle of non-discrimination laid down in Clause 4.1 is without prejudice to the appropriate application, under Clause 4.2 of the principle of *pro rata temporis* (see, to that effect, order of 3 March 2021, *Fogasa*, C-841/19, EU:C:2021:159, paragraphs 41 and 42 and the case-law cited).

57 The taking into account of the amount of time actually worked by a part-time worker, as compared with that of a full-time worker, is an objective ground within the meaning of Clause 4.1 of the Framework Agreement, justifying a proportionate reduction of the rights and employment conditions of a part-time worker (order of 3 March 2021, *Fogasa*, C-841/19, EU:C:2021:159, paragraph 43 and the case-law cited).

58 As is apparent from the order for reference, the legislation at issue in the main proceedings provides that, for the purposes of calculating the remuneration of professional firefighters who, like RM, were recruited before 9 April 2002, length of service equivalent to the number of years of service completed by them as volunteer firefighters, determined in proportion to the service actually undertaken by them, is granted.

59 The application, in respect of such professional firefighters, of a decisive factor determining the level of their remuneration, such as the length of service for remuneration purposes, corresponding to the percentage of the time they have worked as part-time workers in relation to the hours worked by full-time workers pursuing the same activity, constitutes an appropriate application of the principle of *pro rata temporis*, within the meaning of Clause 4.2 of the Framework Agreement (see, to that effect, order of 3 March 2021, *Fogasa*, C-841/19, EU:C:2021:159, paragraph 45).

60 In those circumstances, it must be held that, in the present case, the application of the principle of *pro rata temporis*, for the purposes of determining the length of service for remuneration purposes of professional firefighters who have worked part-time as volunteer firefighters, constitutes an appropriate application of that principle, within the meaning of Clause 4.2 of the Framework Agreement.

61 That finding is not called into question by the fact, put forward by RM in its written observations, that, for professional firefighters recruited on or after 9 April 2002, account is taken of length of service for remuneration purposes equivalent to the number of years of service completed by them as volunteer firefighters, without taking into account the volume of work actually performed by them.

62 Clause 4.2 of the Framework Agreement provides that the principle of *pro rata temporis* is to apply ‘where appropriate’. Therefore, that provision does not require the application of that principle, nor does it, a fortiori, prevent the application of that principle to a domain to which it previously applied. To maintain the contrary would run counter to the objectives of the Framework Agreement, which seeks, inter alia, as stated in Clause 1(a) thereof, to improve the quality of part-time work.

63 In any event, any possible difference in treatment between two categories of part-time workers would not be covered by the principle of non-discrimination established by the Framework Agreement (see, by analogy, as regards the Framework Agreement on fixed-term work, judgment of 13 January 2022, *MIUR and Ufficio Scolastico Regionale per la Campania*, C-282/19, EU:C:2022:3, paragraph 72 and the case-law cited).

64 In addition, as regards the calculation of the service actually undertaken by RM when he was a volunteer firefighter, it should be recalled that, in the case of a volunteer firefighter of the town of Nivelles (Belgium), the Court has already held that a situation in which a worker is required to be on stand-by at his home, to be available there to his employer and to be able to reach his place of work within a period of eight minutes must be regarded as falling within the concept of ‘working time’ within the meaning of Article 2 of Directive 2003/88/EC of the European Parliament and of

the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ 2003 L 299, p. 9). The situation is different, however, where a worker is on stand-by under a system which requires that the worker be permanently accessible without being required to be present at that place (see judgment of 21 February 2018, *Matzak*, C-518/15, EU:C:2018:82, paragraphs 60 and 65).

65 Finally, it should also be noted that the finding in paragraph 60 of the present judgment, that the legislation at issue in the main proceedings constitutes an appropriate application of the principle of *pro rata temporis* is subject to the condition that the determination of length of service for remuneration purposes depends directly on the amount of work carried out by the worker concerned, and not solely on the length of service he has completed. In the latter case, the principle of *pro rata temporis* would not apply (see, to that effect, judgment of 10 June 2010, *Bruno and Others*, C-395/08 and C-396/08, EU:C:2010:329, paragraphs 65 and 66).

66 In the present case, it appears to follow from the order for reference that the determination of RM's length of service for remuneration purposes depends directly on the amount of work performed by RM. However, it is for the referring court to carry out the necessary investigations in that regard.

67 In the light of all the foregoing considerations, the answer to the question referred is that Clause 4 of the Framework Agreement must be interpreted as not precluding national legislation which, for the purposes of calculating the remuneration of professional firefighters employed on a full-time basis, accredits, in respect of the length of service for remuneration purposes, work performed previously on a part-time basis as a volunteer firefighter, in line with the principle of *pro rata temporis*, that is to say, on the basis of the work actually performed.

Costs

68 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Seventh Chamber) hereby rules:

Clause 4 of the Framework Agreement on part-time work concluded on 6 June 1997 which is annexed to Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC is to be interpreted as not precluding national legislation which, for the purposes of calculating the remuneration of professional firefighters employed on a full-time basis, accredits, in respect of the length of service for remuneration purposes, work performed previously on a part-time basis as a volunteer firefighter in line with the principle of *pro rata temporis*, that is to say, on the basis of the work actually performed.

[Signatures]

---

* Language of the case: French.