

**Request for a preliminary ruling from the Landesarbeitsgericht Berlin-Brandenburg (Germany) lodged on 3 June 2020 — NP v Daimler AG**

**(Case C-232/20)**

*Language of the case: German*

**Referring court**

Landesarbeitsgericht Berlin-Brandenburg

**Parties to the main proceedings**

*Applicant:* NP

*Defendant:* Daimler AG, Mercedes-Benz Werk Berlin

**Questions referred**

Is the assignment of a temporary agency worker to a user undertaking no longer to be regarded as ‘temporary’ for the purposes of Article 1 of the Temporary Agency Work Directive <sup>1</sup> as soon as the employment takes place in a job which is permanent and not performed as cover?

Is the assignment of a temporary agency worker for a period of less than 55 months no longer to be regarded as ‘temporary’ for the purposes of Article 1 of the Temporary Agency Work Directive?

If the answer to Question 1 and/or Question 2 is in the affirmative, the following additional questions arise:

3.1 Does the temporary agency worker have an entitlement to the establishment of an employment relationship with the user undertaking even if the national law does not provide for such a penalty before 1 April 2017?

3.2 Does a national provision such as Paragraph 19(2) of the Arbeitnehmerüberlassungsgesetz (Law regulating temporary agency work) infringe Article 1 of the Temporary Agency Work Directive where it prescribes an individual maximum assignment period of 18 months for the first time as from 1 April 2017, but expressly excludes the taking into account of prior periods of assignment, although the assignment could no longer be classified as temporary if the prior periods of assignment were taken into account?

3.3 Can the extension of the individual maximum assignment period be left to the discretion of the parties to a collective agreement? If so, does this also apply to parties to a collective agreement who exercise competence not over the employment relationship of the temporary agency worker concerned, but over the sector in which the user undertaking is active?

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<sup>1</sup> Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work (OJ 2008 L 327, p. 9).