

**Question for written answer E-002985/2014
to the Commission**

Rule 117

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Subject: Potential violation by the Spanish State of clause 5 of Council Directive 1999/70/EC in relation to temporary judges' access to public positions

In its answer to our question E-010480/2013,¹ the Commission informed us that it had launched an investigation into a potential violation of clause 5 of Directive 1999/70/EC by the Spanish State. Specific mention should be made of the archaic 'turno libre' ('free turn') system for accessing careers in the judiciary.² Designed in the 19th century, it consists of two oral examinations on nearly 400 topics³ to be memorised, which candidates must prepare for privately with a member of the judiciary or a public prosecutor – a 'preparer' – who earns a huge amount of money from the process each month.⁴ The system requires candidates to dedicate their time exclusively to preparing for the examinations, preventing them from doing any other kind of work.⁵ The illogical access system rules out anyone lacking sufficient financial resources and legal professionals with significant court or teaching experience – including interim judges – as the 'cuarto turno' ('fourth turn') professional admission system is minimal in scope.⁶ This means that equal access is not guaranteed, since merit and ability are not the main criteria, as the average person cannot pay the preparer the monthly fee of EUR 300 plus (which is only viable for the most affluent members of society). Due to the exclusive nature of the preparations, it has become a classist caste system which is unreachable not only to professionals and anyone on low income, but also to older people, despite the fact that they are more deserving, better qualified and have greater professional experience; the Spanish judiciary itself has brazenly admitted to blatant indirect age discrimination.⁷ Strangest of all is the position of interim judges who, despite years on the job proving their worth, are denied access to permanent contracts. Temporary recruitment is thus being abused to prop up a system which is extremely lucrative for the upper echelons of the Spanish judiciary, who are systematically discriminating against interim judges.

Does the Commission believe that Spain is correctly and effectively applying clause 5 of the Framework Agreement in Council Directive 1999/70/EC of 28 June 1999, which lists general 'measures to prevent abuse' of temporary recruitment? Does the Commission believe that Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, which prohibits indirect discrimination based on age, is being violated?

¹ <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2013-010480&language=EN>

² http://www.poderjudicial.es/cgpj/es/Servicios/Acceso_a_la_Carrera_Judicial__Jueces_y_Fiscales

³ <http://www.boe.es/boe/dias/2011/02/05/pdfs/BOE-A-2011-2234.pdf>

⁴ <http://www.laverdad.es/murcia/v/20130310/espana/negocio-preparadores-20130310.html>

⁵ <http://www.mundiaro.com/articulo/politica/la-existencia-de-la-escuela-judicial-no-aminora-los-males-de-las-oposiciones-en-espana/20130211235741003989.html>

⁶ <http://www.boe.es/boe/dias/2013/09/24/pdfs/BOE-A-2013-9898.pdf>

⁷ <http://www.poderjudicial.es/portal/site/cgpj/menuitem.0cb0942ae6fbda1c1ef62232dc432ea0>