

**Question for written answer E-002986/2014  
to the Commission**

Rule 117

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**Subject:** Potential violation of clause 5 of Council Directive 1999/70/EC by the Spanish State through abuse of the temporary recruitment of interim judges

In its answer to our question E-010480/2013<sup>1</sup> the Commission told us that it had launched an investigation into a potential violation of clause 5 of Directive 1999/70/EC by the Spanish State. An investigation such as this should take account of the fact that, despite the interim judiciary having been set up in 1986<sup>2</sup> and still being in existence,<sup>3</sup> neither the Organic Law on the Spanish Judiciary, nor the Regulations on the Judicial Career, nor the Basic Statute of Public Employment (the only regulations governing the interim judiciary) – nor, by extension, the Spanish State – have introduced any of the measures listed in clause 5.1 of the Framework Agreement annexed to Directive 1999/70/EC, or any other equivalent and effective legal measures to prevent abuse arising from the use of successive fixed-term contracts in the employment of substitute or interim judges. Contrary to Directive 1999/70/EC, and despite the fact that the interim judiciary has been in existence for 25 years – many of its members having been in continuous employment for decades owing to Spain's urgent need for judges – the Spanish State is attempting to get rid of it altogether by means of Organic Law 8/2012 amending the Organic Law on the Spanish Judiciary and Royal Decree 700/13, and consequently avoid complying with European regulations. Spanish law does not contain any measures to prevent the abuse of substitute judges and replacement magistrates through the use fixed-term contracts, nor can these contracts be made permanent – despite the existence of specific provisions to that effect in private sector employment law.<sup>4</sup> In the light of the aforesaid and the settled CJEU case-law in the 'Adeneler' (Case C-212/04)<sup>5</sup> and 'Marosu and Sardino' (Case C-53/04) judgments:<sup>6</sup>

Could the Commission give us the results of the investigation into a potential violation by the Spanish State of clause 5 of Council Directive 1999/70/EC concerning 'measures to prevent abuse' of the temporary recruitment of interim judges? Should private sector regulations governing the upgrading of successive fixed-term contracts to permanent ones also apply to the interim judiciary?

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

<sup>2</sup> <http://www.boe.es/buscar/doc.php?id=BOE-A-1986-10971>

<sup>3</sup> <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2013-010480&language=EN>

<sup>4</sup> [http://www.empleo.gob.es/es/sec\\_leyes/trabajo/estatuto06/Apdo\\_3\\_4\\_estatuto.pdf](http://www.empleo.gob.es/es/sec_leyes/trabajo/estatuto06/Apdo_3_4_estatuto.pdf)

<sup>5</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62004CJ0212:EN:PDF>

<sup>6</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62004CJ0053:EN:PDF>