

**Question for written answer E-004185/2021  
to the Commission**

Rule 138

**Antonio López-Istúriz White (PPE), Rosa Estaràs Ferragut (PPE)**

**Subject:** Follow-up to the answer to Written Question E-003419/2021 on improper use of temporary contracts in Spain's public administrations

In its answer to Written Question E-003419/2021, the Commission stated that it was not in a position to respond to the request that it give its assessment of the failure by the Spanish courts to comply with the case-law of the Court of Justice of the European Union (CJEU).

Although this is actually about widespread non-compliance, we could refer to High Court judgment STSJ PV 516/2021 of 13 May 2021 [ECLI:ES:TSJPV:2021:516]<sup>1</sup>, in which the criterion of 'permanence' is rejected for workers in respect of whom there has been improper use of a temporary contract.

Judgment STS 2640/2021 of 30 June 2021 [ECLI:ES:TS:2021:2640]<sup>2</sup> also fails to comply with the criteria laid down by the CJEU, as it suggested that a solution could be to grant those affected by improper use of contracts the status of workers with non-permanent indefinite contracts.

It is stated in paragraph 102 of the CJEU's judgment of 19 March 2020 in Joined Cases C-103/18 and C-429/18<sup>3</sup> that the concept of 'non-permanent workers of indefinite duration' currently established in Spanish case-law is not consistent with Clause 5 of the Framework Agreement as there is still a possibility for employers to terminate the post or duties, and therefore the workers concerned are still temporary.

What is the Commission's assessment of these compliance failures?

---

<sup>1</sup> <https://www.poderjudicial.es/search/AN/openDocument/0b1383afbfed57de/20210615>

<sup>2</sup> <https://www.poderjudicial.es/search/TS/openDocument/988f3f6d626668e1/20210712>

<sup>3</sup> <https://curia.europa.eu/juris/document/document.jsf?docid=224584&doclang=EN>