



11.2.2022

NOTICE TO MEMBERS

Subject: Petition No 0696/2021 by R. M. M. L. (Spanish), on behalf of the Strike Committee of the General Administration of the Government of the Canary Islands, on the status of temporary workers in the Canary Islands

1. Summary of petition

The petitioner states that for 20 years the Government of the Autonomous Community of the Canary Islands has employed 40% of its workforce on a temporary status and is thus in breach of Spanish legislation which states that structural positions occupied by temporary staff must not be offered for longer than three years. She requests that the Administration of the Autonomous Community of the Canary Islands comply with the judgments of the Court of Justice of the European Union and acknowledge the exploitation of the temporary status in its internal regulations and that it grant permanent status for its employment positions along with the same stability guarantees that permanent staff have.

2. Admissibility

Declared admissible on 12 November 2021. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 11 February 2022

The Court of Justice of the European Union clarified in a number of judgments¹, that the Framework Agreement annexed to Council Directive 1999/70/EC² does not lay down a general obligation on the Member States to provide for the conversion of fixed-term employment

¹ See, for instance, judgment of 3 June 2021, *IMIDRA*, C-726/19, paragraph 49.

² Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP.

contracts into contracts of indefinite duration.

Nevertheless, national law must provide measures to prevent and, if necessary, punish cases of abuse of successive fixed-term contracts or employment relationships in order to comply with Clause 5 of the Framework Agreement. Whether the arrangements in place in the public sector in Spain comply with this obligation is under investigation by the Commission.

The Commission has received a large number of complaints on the topic raised by the petitioner, which have been grouped into a multiple complaint and registered under reference CHAP(2013)01917.

In line with its procedures for handling multiple complaints, the Commission has published an answer to the complaint on the Europa website. The text is available via the following link:

https://ec.europa.eu/info/about-european-commission/contact/problems-and-complaints/how-make-complaint-eu-level/joining-similar-complaints/decisions-multiple-complaints_es

The Commission also notes that national administrations are in principle free to organise their own processes for selecting civil servants, as long as these do not entail discrimination on grounds protected under EU law. It is for national courts to clarify the facts related to individual cases, including through inspections as appropriate, to assess their conformity with national and EU law and, if necessary, to decide on the measures to be applied, including compensation and/or penalties.

Conclusion

The Framework Agreement annexed to Council Directive 1999/70/EC does not lay down a general obligation on the Member States to provide for the conversion of fixed-term employment contracts into contracts of indefinite duration. The Commission is investigating the existence in Spanish law of other measures to prevent and, if necessary, punish cases of abuse of successive fixed-term contracts or employment relationships in the public sector.