



21.2.2022

## NOTICE TO MEMBERS

**Subject:** Petition No 0774/2021 by Francisco José Pons Bejarano (Spanish) on strengthening the employment status of interim staff working for the Spanish authorities

### 1. Summary of petition

The petitioner complains that there is a lack of protection for interim staff. He maintains that Decree Law 14/2021 of 6 July 2021 on urgent measures to reduce temporary employment in the civil service – which was published on 7 July 2021 and entered into force on 8 July – is ineffective and is not consistent with Directive 1999/70/EC, or with judgments and orders handed down by the Court of Justice of the European Union on the subject of strengthening the employment status of interim staff.

### 2. Admissibility

Declared admissible on 30 November 2021. Information requested from Commission under Rule 227(6).

### 3. Commission reply, received on 21 February 2022

#### The Commission's observations

The Commission is keeping open infringement INFR(2014)4334 referring to measures to prevent the abusive use of successive fixed-term contracts in the Spanish public sector as required by Clause 5 of Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP<sup>1</sup>.

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<sup>1</sup> Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, *OJL 175, 10.7.1999, p. 43–48*.

On 7 July 2021, Royal Decree-Law 14/2021 of 6 July on urgent measures to reduce temporary employment in public employment<sup>2</sup> was published. That Royal Decree-Law included the amendment of the consolidated text of the Law on the Basic Public Employees Statute, approved by Royal Legislative Decree 5/2015 of 30 October, introducing a number of measures with the objective to prevent and penalise the misuse of fixed-term relationships in the public sector.

The Royal Decree-Law was ratified by the Spanish Parliament in the plenary session of 21 July 2021, that is, after the petition was presented. In the same session, it was agreed that the Royal Decree-Law would be processed as a bill in order to introduce new amendments in the following months.

The Royal Decree-Law was in turn superseded by Law 20/2021 of 28 December.

The Commission is currently analysing the changes introduced in Spanish law, notably Law 20/2021 of 29 December 2021, in order to assess the conformity of the resulting text with the Directive and the relevant case law of the Court of Justice of the European Union (CJEU). Based on the outcome of that assessment, the Commission will decide on the appropriate next steps to take in infringement INFR(2014)4334.

In relation to the Recovery and Resilience Plan ('RRP') submitted by Spain on 30 April 2021, the Commission adopted a positive assessment of the plan on 16 June (COM (2021) 322). The Council approved the positive assessment of the plan by the Implementing Decision of 13 July (2021/0156 (NLE)).

In accordance with Article 24 of Regulation (EU) 2021/241<sup>3</sup>, once the relevant agreed milestones and targets set out in the Council Implementing Decision have been satisfactorily fulfilled, the Member State shall submit to the Commission a duly justified request for payment of the financial contribution and, where appropriate, of the loan under the Recovery and Resilience Facility.

Spain submitted the first payment claim on 11 November 2021. The Commission assessed that the relevant milestones and targets set out in the Council Implementing Decision had been satisfactorily fulfilled (MT 144), on the basis of the criteria set out in Article 24 of Regulation (EU) 2021/241, in order to process the requested payment.

### Conclusion

The Commission is currently analysing the changes introduced in Spanish law in order to assess the conformity of the resulting text with Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP and the relevant case law of the CJEU.

Concerning the Spanish RRP, the Commission assessed that the relevant milestones and targets set out in the Council Implementing Decision had been satisfactorily fulfilled (including MT

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<sup>2</sup> BOE n. 161, of 07/07/2021, BOE-A-2021-11233.

<sup>3</sup> Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, *OJL 57, 18.2.2021, p. 17–75*.

144). This was based on the criteria set out in Article 24 of Regulation (EU) 2021/241 in order to process the payment request of 11 November 2021 under the Recovery and Resilience Facility.