

2. A length-of-service increment such as that at issue in the main proceedings is, as an employment condition, covered by clause 4(1) of the framework agreement on fixed-term work annexed to Directive 1999/70. Consequently, fixed-term workers may contest treatment which, with regard to payment of that increment, is less favourable than that which is given to permanent workers in a comparable situation and for which there is no objective justification. The temporary nature of the employment relationship of certain public servants is not, in itself, capable of constituting an objective ground within the meaning of that clause of the framework agreement.
3. The mere fact that a national provision such as Article 25(2) of Law 7/2007 on the basic regulations relating to public servants (*Ley 7/2007 del Estatuto Básico del empleado público*) of 12 April 2007 contains no reference to Directive 1999/70 does not preclude that provision from being regarded as a national measure transposing the directive.
4. Clause 4(1) of the framework agreement on fixed-term work, annexed to Directive 1999/70, is unconditional and sufficiently precise for interim civil servants to be able to rely on it as against the State before a national court in order to obtain recognition of their entitlement to length-of-service increments, such as the three-yearly increments at issue in the main proceedings, in respect of the period starting with the date by which Member States should have transposed Directive 1999/70 and ending with the date of entry into force of the national law transposing that directive into the domestic law of the Member State concerned, subject to compliance with the relevant provisions of national law concerning limitation.
5. Even though the national legislation transposing Directive 1999/70 contains a provision which, whilst recognising the right of interim civil servants to be paid the three-yearly length-of-service increments, excludes the retrospective application of that right, the competent authorities of the Member State concerned are obliged, under European Union law and in relation to a provision of the framework agreement on fixed-term work, annexed to Directive 1999/70, having direct effect, to give that right to payment of the increments retrospective effect to the date by which the Member States should have transposed Directive 1999/70.

(¹) OJ C 24, 30.1.2010.

Judgment of the Court (Second Chamber) of 16 December 2010 — AceaElectrabel Produzione SpA v European Commission, Electrabel SA

(Case C-480/09 P) (¹)

(Appeal — State aid — Aid declared compatible with the common market — Condition requiring prior repayment by the beneficiary of earlier aid declared unlawful — Concept of ‘economic unit’ — Joint control by two separate parent companies — Distortion of the pleas in law relied on in the application — Errors and defective reasoning)

(2011/C 55/26)

Language of the case: Italian

Parties

Appellant: AceaElectrabel Produzione SpA (represented by: L. Radicati di Brozolo and M. Merola, avvocati)

Other parties to the proceedings: European Commission (represented by: V. Di Bucci, Agent), Electrabel SA (represented by: L. Radicati di Brozolo and M. Merola, avvocati)

Re:

Appeal against the judgment of the Court of First Instance (First Chamber) of 8 September 2009 in Case T 303/05 *ACEAElectrabel Produzione SpA v Commission* by which the Court of First Instance dismissed the application for annulment of Commission Decision 2006/598/EC of 16 March 2005 concerning State aid that Italy (Regione Lazio) intends to grant for the reduction of greenhouse gas emissions (OJ 2006 L 244).

Operative part of the judgment

The Court:

1. dismisses the appeal;
2. orders AceaElectrabel Produzione SpA, in addition to bearing its own costs, to pay those incurred by the European Commission;
3. orders Electrabel SA to bear its own costs.

(¹) OJ C 24, 30.1.2010.

Judgment of the Court (First Chamber) of 9 December 2010 (reference for a preliminary ruling from the Bundesfinanzhof, Germany) — Minerva Kulturreisen GmbH v Finanzamt Freital

(Case C-31/10) (¹)

(Sixth VAT Directive — Article 26 — Special scheme for travel agents and tour operators — Scope — Sale of opera tickets without the provision of supplementary services)

(2011/C 55/27)

Language of the case: German

Referring court

Bundesfinanzhof (Germany)