

**Order of the Court (Sixth Chamber) of 11 November 2010 —  
Vino v Poste Italiane**

**(Case C-20/10)**

(Article 104(3) of the Rules of Procedure — Social policy — Directive 1999/70/EC — Clauses 3 and 8 of the framework agreement on fixed-term work — Fixed-term employment contracts in the public sector — First or single use of a contract — Obligation to state the objective reasons — Elimination — Reduction in the general level of protection of employees — Principle of non-discrimination — Articles 82 EC and 86 EC)

1. *Social policy — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Directive 1999/70 — Reduction of the general level of protection of workers in the field of that agreement prohibited (Council Directive 1999/70, Annex, Clause 8(3)) (see para. 48)*
2. *Social policy — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Directive 1999/70 — Scope — Differences in treatment of certain categories of fixed-term workers — Not included (Council Directive 1999/70, Annex, clause 4) (see paras 55-57)*
3. *Questions referred for a preliminary ruling — Jurisdiction of the Court — Limits — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Directive 1999/70 — Purpose — Fixing general principles and minimum rules for certain limited aspects of fixed-term contracts — No harmonisation of all national rules relating to fixed-term contracts (Art. 267 TFEU) (see paras 50, 54, 63-65)*
4. *Questions referred for a preliminary ruling — Admissibility — Need to provide the Court with sufficient information on the factual and legislative context — Extent of the obligation in the sphere of competition (Art. 267 TFEU) (see paras 76-77, 79)*

**Re**

Reference for a preliminary ruling — Tribunale di Trani — Interpretation of Clauses 3 and 8(3) of the Annex to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (OJ 1999 L 175, p. 43) — Compatibility of an internal rule validating in the internal legal order a clause not stating the reason for the engagement on fixed-term contracts of workers by Poste Italiane SpA.

**Operative part**

1. Clause 8(3) of the framework agreement on fixed-term work concluded on 18 March 1999, which is annexed to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, must be interpreted as not precluding national legislation, such as that provided for by Article 2(1)(a) of Legislative Decree No 368 implementing Directive 1999/70/EC concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP of 6 September 2001 (decreto legislativo n. 368, attuazione della direttiva 1999/70 relativa all'accordo quadro sul lavoro a tempo determinato concluso dall'UNICE, dal CEEP e dal CES), which, unlike the statutory rules applicable before that decree entered into force, allows a company such as Poste Italiane SpA to conclude, subject to observance of certain conditions, a first or single use of a fixed-term contract with a worker, such as Mr Vino, without having to state the objective reasons that justify the use of a contract concluded for such a duration, for that legislation is not connected to the implementation of the framework agreement. It is, in that regard, irrelevant whether the objective pursued by that legislation provides protection at least equivalent to the protection of fixed-term workers referred to in the framework agreement.

2. The Court of Justice of the European Union manifestly lacks jurisdiction to reply to the fourth question referred for a preliminary ruling by the Tribunal di Trani (Italy).
3. The fifth question referred for a preliminary ruling by the Tribunal di Trani is manifestly inadmissible.

**Judgment of the Court (Fifth Chamber) of 18 November 2010 —  
ArchiMEDES v Commission**

**(Case C-317/09P)**

(Appeal — Set-off of claims governed by separate legal orders — Application for repayment of sums advanced — Principle of *litis denuntiatio* — Rights of the defence and right to a fair hearing)

1. *Procedure — Statement of reasons for judgments — Scope (Statute of the Court of Justice, Art. 36) (see paras 76-78)*
2. *Appeals — Grounds — Plea submitted for the first time in the context of the appeal — Inadmissibility (see paras 88-91)*
3. *Appeals — Grounds — Grounds of a judgment vitiated by an infringement of Union law (see para 105)*
4. *Appeals — Grounds — Plea in law to the effect that there is no mechanism for the joinder of a third party (see paras 121-125)*