

2. When is an employment relationship to be regarded as being for the public service of the 'State', for the purposes of Clause 5 of [the framework agreement set out in the annex to] Directive 1999/70/EC and, in particular, within the meaning of the expression 'specific sectors and/or categories of workers', and thus capable of justifying results that are different from those which ensue from employment relationships in the private sector?
3. Having regard to the explanations contained in Article 3(1)(c) of Directive 2000/78/EC ⁽²⁾ and in Article 14(1)(c) of Directive 2006/54/EC, ⁽³⁾ does the notion of employment conditions contained in Clause 4 of [the framework agreement set out in the annex to] Directive 1999/70/EC also include the consequences of the unlawful interruption of an employment relationship? If the answer to the preceding question is in the affirmative, is the difference between the consequences normally provided for in national law for the unlawful interruption of fixed-term employment relationships and for the unlawful interruption of employment relationships of indefinite duration justifiable under Clause 4?
4. By virtue of the principle of sincere cooperation, is a State precluded from presenting to the Court of Justice of the European Union in a request for a preliminary ruling a deliberately untrue description of a national legislative framework and are the national courts obliged, in the absence of any alternative interpretation of national law that also satisfies the obligations deriving from membership of the European Union to the same degree, to interpret, where possible, national law in accordance with the interpretation given by the State?
5. Is a statement of the circumstances in which a fixed-term employment contract may be converted into a permanent contract one of the conditions applicable to the contract or employment relationship contemplated by Directive 91/533/EEC, ⁽⁴⁾ in particular, by Article 2(1) and (2)(e) thereof?
6. If the answer to the preceding question is in the affirmative, is a retroactive amendment to the legislative framework which does not guarantee that employees can claim the rights conferred on them by the directive, that is to say, that the conditions of employment specified in the document under which they were recruited will be observed, contrary to Article 8(1) of Directive 91/533/EEC and to the objectives of that directive, in particular those mentioned in the second recital of the preamble thereto?
7. Must the general principles of [European Union] law presently in force concerning legal certainty, the protection of legitimate expectations, procedural equality, effective judicial protection, the right to an independent court or tribunal and, more generally, the right to due process, guaranteed by Article 6(2) of the Treaty on European Union (as amended by Article 1.8 of the Treaty of Lisbon and as referred to by Article 46 TEU), read in conjunction with Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, and with Articles 46, 47 and 52(3) of the Charter of Fundamental Rights of the

European Union, proclaimed in Nice on 7 December 2000, as incorporated in the Treaty of Lisbon, be interpreted as precluding, within the scope of Directive 1999/70/EC, the adoption by the Italian State, after a significant period of time (three and a half years), of a legislative provision such as Article 9 of Decree-Law No 70 of 13 May 2011, converted by way of Law No 106 of 12 July 2011, [which] added to Article 10 of Legislative Decree No 368/01 a paragraph 4a which is liable to alter the consequences of ongoing proceedings by directly placing at a disadvantage the worker and benefiting the State in its capacity as employer, and by eliminating the possibility conferred by the national legal system of penalising the abusive repeated renewal of fixed-term contracts?

⁽¹⁾ 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).

⁽²⁾ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16).

⁽³⁾ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) (OJ 2006 L 204, p. 23).

⁽⁴⁾ Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (OJ 1991 L 288, p. 32).

Request for a preliminary ruling from the Tribunale di Napoli (Italy) lodged on 7 February 2013 — Fortuna Russo v Comune di Napoli

(Case C-63/13)

(2013/C 141/22)

Language of the case: Italian

Referring court

Tribunale di Napoli

Parties to the main proceedings

Applicant: Fortuna Russo

Defendant: Comune di Napoli

Questions referred

1. When is an employment relationship to be regarded as being for the public service of the 'State', for the purposes of Clause 5 of [the framework agreement set out in the annex to] Directive 1999/70/EC ⁽¹⁾ and, in particular, within the meaning of the expression 'specific sectors and/or categories of workers', and thus capable of justifying results that are different from those which ensue from employment relationships in the private sector?

2. Having regard to the explanations contained in Article 3(1)(c) of Directive 2000/78/EC⁽²⁾ and in Article 14(1)(c) of Directive 2006/54/EC,⁽³⁾ does the notion of employment conditions contained in Clause 4 of [the framework agreement set out in the annex to] Directive 1999/70/EC also include the consequences of the unlawful interruption of an employment relationship? If the answer to the preceding question is affirmative, is the difference between the consequences normally provided for in national law for the unlawful interruption of fixed-term employment relationships and for the unlawful interruption of employment relationships of indefinite duration justifiable under Clause 4?

3. By virtue of the principle of sincere cooperation, is a State precluded from presenting to the Court of Justice of the European Union in a request for a preliminary ruling a deliberately untrue description of a national legislative framework and are the national courts obliged, in the absence of any alternative interpretation of national law that also satisfies the obligations deriving from membership of the European Union to the same degree, to interpret, where possible, national law in accordance with the interpretation given by the State?

⁽¹⁾ 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).

⁽²⁾ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16).

⁽³⁾ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) (OJ 2006 L 204, p. 23).

Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 11 February 2013 — Gmina Wrocław v Minister Finansów

(Case C-72/13)

(2013/C 141/23)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Appellant: Gmina Wrocław

Respondent: Minister Finansów

Question referred

Do the provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax⁽¹⁾ preclude the imposition of VAT on the activities of a

municipality consisting in the sale or the contribution to commercial companies of property, including immovable property, acquired by operation of law or without consideration, in particular by inheritance or gift?

⁽¹⁾ OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 21 February 2013 — Staatssecretaris van Financiën, Other party: X

(Case C-87/13)

(2013/C 141/24)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicant: Staatssecretaris van Financiën

Other party: X

Questions referred

1. Does EU law, in particular the rules on freedom of establishment and on free movement of capital, preclude a resident of Belgium who, at his request, is taxed in the Netherlands as a resident and who has incurred costs in respect of a castle, used by him as his own home, which is located in Belgium and is designated there as a legally protected monument and village conservation area, from deducting those costs in the Netherlands for income tax purposes on the grounds that the castle is not registered as a protected monument in the Netherlands?

2. To what extent is it important in that regard whether the person concerned may deduct those costs for income tax purposes in his country of residence, Belgium, from his current or future investment income by opting for a system of graduated taxation of that income?

Request for a preliminary ruling from the Cour constitutionnelle (Belgium) lodged on 28 February 2013 — Guy Kleynen v Council of Ministers

(Case C-99/13)

(2013/C 141/25)

Language of the case: French

Referring court

Cour constitutionnelle