

**Request for a preliminary ruling from the Tribunale Amministrativo Regionale della Campania (Italy)
lodged on 22 January 2018 — Meca Srl v Comune di Napoli**

(Case C-41/18)

(2018/C 142/36)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale della Campania

Parties to the main proceedings

Applicant: Meca Srl

Defendant: Comune di Napoli

Question referred

Do the Community principles of protection of legitimate expectations and of legal certainty, laid down in the Treaty on the Functioning of the European Union (TFEU), and the principles deriving therefrom, such as those of equal treatment, non-discrimination, proportionality and effectiveness, referred to in Directive 2014/24/EU, ⁽¹⁾ and the provisions of Article 57 (4)(c) and (g) of that Directive, preclude the application of national legislation, such as the Italian legislation founded on Article 80(5)(c) of Legislative Decree No 50/2016, according to which challenging before the courts significant deficiencies identified in the performance of a previous procurement procedure, which resulted in the early termination of a previous procurement contract, excludes any assessment by the procuring entity as to the reliability of the tenderer, until a final ruling has been issued in the civil proceedings, when the undertaking concerned has not demonstrated that it has adopted any 'self-cleaning' measures in order to remedy the breaches and avoid any repetition of them?

⁽¹⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC Text with EEA relevance (OJ 2014 L 94, p. 65).

**Request for a preliminary ruling from the Tribunal Superior de Justicia de Galicia (Spain) lodged on
24 January 2018 — Cobra Servicios Auxiliares, S.A. v FOGASA, Jesús Valiño López and Incatema, S.**

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(Case C-44/18)

(2018/C 142/37)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Galicia

Parties to the main proceedings

Appellant: Cobra Servicios Auxiliares, S.A.

Respondents: FOGASA, Jesús Valiño López and Incatema, S.L.

Questions referred

- (1) Must Clause 4 of the framework agreement on fixed-term work contained in the Annex to Directive 1999/70 ⁽¹⁾ be interpreted as precluding national legislation which, in respect of the same set of facts (the termination of a contract for services (contrata) between the employer and a third-party undertaking at the latter's instigation), provides for a lower level of compensation for (i) termination of a fixed-term contract (contrato) for a specific task or service with a term of the same duration as that of the contract between the employer and the third-party undertaking than it does for (ii) termination of the permanent contracts of comparable workers under a collective redundancy that is justified on production-related grounds pertaining to the employer and arises from the termination of the contract between the employer and the third-party undertaking?

- (2) If the answer is in the affirmative, is the unequal treatment between workers on fixed-term contracts and comparable permanent workers as regards compensation for termination of contract in cases where termination is prompted by the same factual circumstances but based on different legal grounds to be considered to constitute discrimination of the type prohibited in Article 21 of the Charter, inasmuch as it is contrary to the principles of equal treatment and non-discrimination in Articles 20 and 21 of the Charter, which form part of the general principles of EU law?

⁽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).

**Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 25 January 2018 —
Caseificio Sociale San Rocco Soc. coop. arl and Others v Agenzia per le Erogazioni in Agricoltura
(the AGEA), Regione Veneto**

(Case C-46/18)

(2018/C 142/38)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellants: Caseificio Sociale San Rocco Soc. coop. arl, S.s. Franco and Maurizio Artuso, Sebastiano Bolzon, Claudio Matteazzi, Roberto Tellatin

Respondents: Agenzia per le Erogazioni in Agricoltura (the AGEA), Regione Veneto

Questions referred

1. In a situation such as that described in the case in the main proceedings, must EU law be interpreted to the effect that the consequence of the conflict of a legislative provision of a Member State with the third paragraph of Article 2(2) of Regulation (EEC) No 3950/92 ⁽¹⁾ is that producers are not obliged to pay the additional levy if the conditions laid down by that Regulation are met?
2. In a situation such as that described in the case in the main proceedings, must EU law and, in particular, the general principle of protection of legitimate expectations, be interpreted as meaning that the expectations of persons who have performed an obligation laid down by a Member State and have benefited from the effects associated with performance of that obligation may not be protected, if that obligation has proved to be in conflict with EU law?
3. In a situation such as that described in the case in the main proceedings, do Article 9 of Regulation (EC) No 1392/2001 ⁽²⁾ of 9 July 2001 and the EU concept of 'priority category' preclude a provision of a Member State, such as Article 2(3) of Decree-Law No 157/2004, adopted by the Republic of Italy, which lays down varying methods for refunding an additional levy that has been over-charged, drawing a distinction, in terms of timetables and methods of repayment, between producers that have relied upon due compliance with a national provision that has proved to be in conflict with EU law and producers who have not complied with such a provision?

⁽¹⁾ Council Regulation (EEC) No 3950/92, of 28 December 1992, establishing an additional levy in the milk and milk products sector (OJ 1992 L 405, p. 1).

⁽²⁾ Commission Regulation (EC) No 1392/2001 of 9 July 2001 laying down detailed rules for applying Council Regulation (EEC) No 3950/92 establishing an additional levy on milk and milk products (OJ 2001 L 187, p. 19).
