

**Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 12 May 2022 — E. v Dyrektor Izby Administracji Skarbowej we Wrocławiu**

(Case C-322/22)

(2022/C 359/24)

*Language of the case: Polish*

**Referring court**

Naczelny Sąd Administracyjny

**Parties to the main proceedings**

*Appellant:* E.

*Respondent:* Dyrektor Izby Administracji Skarbowej we Wrocławiu

**Question referred**

Do the principles of effectiveness, sincere cooperation and equivalence expressed in Article 4(3) of the Treaty on European Union ..., or any other relevant principle laid down in EU law, preclude a provision of national law such as Article 78 § 5(1) and (2) of the ustawa z 29 sierpnia 1997 r. Ordynacja podatkowa (Law of 29 August 1997 establishing the Tax Code) (consolidated text: Dz. U. of 2012, item 749, as amended), which provides that interest on overpaid tax which is collected by a paying agent in a manner not consistent with EU law is not due to the taxable person for the period after the expiry of 30 days from the date of publication in the Official Journal of the judgment of the Court of Justice of the European Union declaring that the collection of the tax is incompatible with EU law, where the request for a declaration of that overpayment was submitted by the taxable person after that time limit and the provisions of national law relating to the collection of the tax continue to be incompatible with EU law despite the judgment of the Court of Justice of the European Union of 10 April 2014, [*E. ... (C-190/12, EU:C:2014:249)*]?  

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**Request for a preliminary ruling from the Juzgado de lo Contencioso-Administrativo No 17 de Barcelona (Spain) lodged on 17 May 2022 — KT v Departamento de Justicia de la Generalitat de Catalunya**

(Case C-331/22)

(2022/C 359/25)

*Language of the case: Spanish*

**Referring court**

Juzgado de lo Contencioso-Administrativo No 17 de Barcelona

**Parties to the main proceedings**

*Applicant:* KT

*Defendant:* Departamento de Justicia de la Generalitat de Catalunya

**Questions referred**

1. Law 20/2021 lays down as the sole punitive measure the holding of selection procedures and the payment of compensation only to victims of abuse who are not successful in those selection procedures. Does that Law infringe clause 5 of the Framework Agreement annexed to Directive 1999/70/EC<sup>(1)</sup> by failing to penalise abuse occurring in relation to temporary public employees who have been successful in such selection procedures, when a penalty is always essential and success in such a selection procedure is not a punitive measure which satisfies the requirements laid down in the Directive, as the CJEU held in its order of 2 June 2021 in Case C-103/19?<sup>(2)</sup>

2. If the answer to the previous question is in the affirmative, and Law 20/2021 does not lay down other effective measures penalising the misuse of a succession of fixed-term contracts or the improper extension of a temporary contract, does the legislative omission consisting of the failure to provide for the conversion of a succession of fixed-term employment contracts or the improper extension of a temporary contract into a contract of indefinite duration infringe clause 5 of the Framework Agreement annexed to Directive 1999/70/EC, as the CJEU ruled in its order of 30 September 2020 in Case C-153/20? <sup>(1)</sup>
3. The Tribunal Supremo [Supreme Court, Spain] laid down in its judgments Nos 1425/2018 and 1426/2018 of 26 September 2018 the case-law, confirmed by its judgment No 1534/2021 of 20 December 2021, according to which the measure to be adopted in the event of misuse of temporary appointments may simply consist of keeping a public employee who is the victim of such misuse in a situation of job insecurity until such time as the employer administrative authority determines whether a structural need exists and holds the appropriate selection procedures — in which candidates who have not suffered such misuse of temporary appointments may also participate — to fill the posts concerned with permanent or career public employees. Does that case-law infringe clause 5 of the Framework Agreement annexed to Directive 1999/70/EC when the holding of an open selection procedure and successful participation in that selection procedure is not a punitive measure which satisfies the requirements laid down in the Directive, as the CJEU held in its order of 2 June 2021 in Case C-103/19?
4. If the answer to the previous question is in the affirmative and the case-law of the Tribunal Supremo [Supreme Court] does not lay down other effective measures for penalising the misuse of successive fixed-term contracts or the improper extension of a temporary contract, does the judicial omission consisting of the failure to provide for the conversion of a succession of fixed-term employment contracts or the improper extension of a temporary contract into a contract of indefinite duration infringe clause 5 of the Framework Agreement annexed to Directive 1999/70/EC, as the CJEU ruled in its order of 3 September 2020 in Case C-153/20?
5. If the legislation adopted to transpose clause 5 of the Framework Agreement annexed to Directive 1999/70/EC infringes Community law by failing to lay down any specific punitive measure which would ensure compliance with the objectives of that Community provision and bring to an end the job insecurity of public employees

In the light of that situation, must the national judicial authorities proceed to order the conversion of an abusive temporary relationship into a permanent relationship which differs from that of a career civil servant but which gives the victim of the abuse job security to prevent that abuse from going unpunished and the undermining of the objectives of clause 5 of the Framework Agreement, even though such a conversion is not provided for in the domestic legislation, provided that the temporary relationship concerned was preceded by a selection process that was open to the public and complied with the principles of equality, merit and ability?

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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 (OJ 1999 L 175, p. 43).

<sup>(2)</sup> EU:C:2021:460.

<sup>(3)</sup> EU:C:2020:760.

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**Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) (Portugal) lodged on 24 May 2022 — Cofidis v Autoridade Tributária e Aduaneira**

**(Case C-340/22)**

(2022/C 359/26)

*Language of the case: Portuguese*

**Referring court**

Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD)

**Parties to the main proceedings**

*Applicant:* Cofidis