2. If Question 1 is answered in the affirmative and having regard to the position adopted by the Italian Constitutional Court [in judgment] No 269/2017 of 14 December 2017 following the judgment [of the Court of Justice of 5 December 2010, *M.A.S. and M.B.*, C-42/17, EU:C:2017:936], in the light of Articles 31(2) and 47 of the Charter of Fundamental Rights of the European Union, Article 267 TFEU and Article 4 of the EU Treaty, can the decision which the Court of Justice has to adopt in the present case, finding that Article 2(3) and (3bis) of Law No 117 of 13 April 1988 is incompatible with EU law, in the main proceedings in which the defendant is a public authority of the State, be treated by the national court as a provision of European Union law of direct effect and application, thus allowing the national precluding provision to be disapplied?'

3. If Question 1 is answered in the affirmative, may an ordinary or '*togato*' judge [a career judge engaged on a permanent basis and salaried] be regarded as a permanent worker indistinguishable from a '*Giudice di Pace*' fixed-term worker for the purposes of the application of Clause 4 of the framework agreement on fixed-term work implemented by Directive 1999/70, ([1]) where the judicial functions performed are the same but the selection procedure for performing the functions differ between ordinary judges (based on qualifications and tests with permanent employment and substantial permanent protection from dismissal, other than in rare cases of grave breaches of duty) and *Giudici di pace* (based on qualifications with fixed-term employment, renewable on a discretionary basis after a favourable periodic review by the by the Consiglio superiore della magistratura (the Supreme Council of the Judiciary) and immediately revocable in the event of an unfavourable review by the *Giudice onorario* (honorary judge)?

([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 Landgericht Kiel (Germany) lodged on 12 October 2018 — KH v Sparkasse Südholstein

(Case C-639/18)

(2019/C 25/20)

Language of the case: German

Referring court

Landgericht Kiel

Parties to the main proceedings

Applicant: KH

Defendant: Sparkasse Südholstein

Questions referred

1. Within the meaning of Article 2(a) of Directive 2002/65/EC ([1]), is a contract concluded 'under an organised distance sales or service-provision scheme run by the supplier', by means of which an existing loan agreement is amended solely with regard to the interest rate agreed (follow-up interest agreement), if a branch bank concludes loan agreements for the purpose of financing an immovable property secured by mortgage only at its commercial premises, but in ongoing business dealings concludes contracts to amend loan agreements that have already been agreed in some cases also by making exclusive use of means of distance communication?

2. Does a 'contract concerning financial services' within the meaning of Article 2(a) of Directive 2002/65/EC exist if an existing loan agreement is amended solely with regard to the agreed interest rate (follow-up interest agreement), without extending the term of the loan or altering the amount of the loan?

([1]) Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC (OJ 2002 L 271, p. 16).