



Reports of Cases

Order of the Court (Eighth Chamber) of 11 December 2014 –León Medialdea

(Case C-86/14)¹

(Reference for a preliminary ruling — Social policy — Directive 1999/70/EC — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Successive fixed-term contracts in the public sector — Clause 3.1 — Definition of ‘fixed-term worker’ — Clause 5.1 — Measures to prevent the abusive use of successive fixed-term employment contracts or relationships — Penalties — Conversion of temporary contracts into non-permanent contracts of an indefinite duration — Right to compensation)

1. *Questions referred for a preliminary ruling — Admissibility — Request not specifying the provisions of EU law in relation to which an interpretation is required — Whether the Court may identify those provisions (Art. 267 TFEU) (see paras 31, 32)*
2. *Questions referred for a preliminary ruling — Jurisdiction of the Court — Limits — Clearly irrelevant questions and hypothetical questions put in a context not permitting a useful answer — Questions bearing no relation to the subject matter of the case in the main proceedings (see paras 33-35)*
3. *Social policy — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Directive 1999/70 — Scope — Worker bound to his employer by fixed-term employment contracts — Included — Reclassification as non-permanent contracts of an indefinite duration — No effect (Council Directive 1999/70, Annex, Clauses 2 and 3.1) (see paras 39-42)*
4. *Social policy — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Directive 1999/70 — Measures to prevent abuse of successive fixed-term contracts — National measure consisting of the mere reclassification, in the public sector, of fixed-term employment contracts as non-permanent contracts of an indefinite duration — Internal legal order not containing, in the sector concerned, other effective measures to prevent and penalise such abusive use — Unlawful (Council Directive 1999/70, Annex, Clause 5.1) (see paras 46-51)*
5. *Social policy — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Directive 1999/70 — Measures to prevent abuse of successive fixed-term contracts — Right to compensation — Requirement that compensation constitute a sufficiently effective penalty — Obligation for the national court to interpret national law in accordance with EU law (Council Directive 1999/70, Annex, Clause 5.1) (see paras 56-58, operative parts 1-3)*

¹ — OJ C 142, 12.05.2014

Operative part

1. Clauses 2 and 3.1 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 meaning that a worker, such as the applicant in the main proceedings, comes within the scope of that framework agreement in so far as that worker is bound to his or her employer by fixed-term employment contracts within the meaning of those clauses.
2. The framework agreement on fixed-term work must be interpreted as precluding national legislation, such as that in issue in the main proceedings, which contains no effective measures for penalising abuse, within the meaning of Clause 5.1 of that framework agreement, resulting from the use of successive fixed-term employment contracts by a public sector employer, where there is no effective measure in the internal legal order for penalising such abuse.
3. It is for the referring court to assess, in accordance with the legislation, collective agreements and/or national practice, what the nature of the compensation granted to a worker, such as the applicant in the main proceedings, should be in order for that compensation to constitute a sufficiently effective measure to penalise the abuse, within the meaning of Clause 5.1 of the framework agreement on fixed-term work.

It is also for the referring court, should it be necessary, to give the relevant provisions of domestic law an interpretation which is, so far as possible, consistent with EU law.