Reports of Cases

ORDER OF THE COURT (Tenth Chamber)

9 February 2017 *

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Directive 1999/70/EC — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Clause 4 — Successive fixed-term contracts in the public sector — Restructuring the organisation of universities — National rules — Integration of college lecturers into the body of university lecturers — Condition — Attainment of a doctorate degree — Changing full-time posts into part-time posts — Applied only to teachers employed as interim civil servants — Principle of non-discrimination)

In Case C-443/16,

REQUEST for a preliminary ruling under Article 267 TFEU from the Juzgado de lo Contencioso-Administrativo No 8 de Madrid (Administrative Court No 8, Madrid, Spain), made by decision of 21 July 2016, received at the Court on 8 August 2016, in the proceedings

Francisco Rodrigo Sanz

v

Universidad Politécnica de Madrid,

THE COURT (Tenth Chamber),

composed of M. Berger, President of the Chamber, A. Borg Barthet and F. Biltgen (Rapporteur), Judges,

Advocate General: E. Sharpston,

Registrar: A. Calot Escobar,

having decided, after hearing the Advocate General, to give a decision by reasoned order, in accordance with Article 99 of the Rules of Procedure of the Court of Justice,

makes the following

Order

1 This request for a preliminary ruling concerns the interpretation of clause 4 of the framework agreement on fixed-term work, concluded on 18 March 1999 ('the framework agreement'), which is set out in the annex to 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).

* Language of the case: Spanish.

2 The request has been made in proceedings between Francisco Rodrigo Sanz and the Universidad Politécnica de Madrid (Polytechnic University of Madrid, Spain; 'UPM'), regarding the decision of the UPM to reduce the applicant's working hours by switching him from a full-time to a part-time post.

Legal context

EU law

3 Article 1 of Directive 1999/70 states that the purpose of the directive is 'to put into effect the framework agreement … concluded between the general cross-industry organisations (ETUC, UNICE and CEEP)'.

4 The first paragraph of Article 2 of that directive states:

'Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive [and must] take any necessary measures to enable them at any time to be in a position to guarantee the results imposed by this Directive. ...'

5 According to clause 1 of the framework agreement, the purpose of that agreement is, first, to improve the quality of fixed-term work by ensuring the application of the principle of non-discrimination and, secondly, to establish a framework to prevent abuse arising from the use of successive fixed-term employment contracts or relationships.

6 Paragraph 1 of clause 2 of the framework agreement, entitled 'Scope', provides:

'This agreement applies to fixed-term workers who have an employment contract or employment relationship as defined in law, collective agreements or practice in each Member State.'

7 Clause 3 of the framework agreement, entitled 'Definitions', provides:

'1. For the purpose of this agreement the term "fixed-term worker" means a person having an employment contract or relationship entered into directly between an employer and a worker where the end of the employment contract or relationship is determined by objective conditions such as reaching a specific date, completing a specific task, or the occurrence of a specific event.

2. For the purpose of this agreement, the term "comparable permanent worker" means a worker with an employment contract or relationship of indefinite duration, in the same establishment, engaged in the same or similar work/occupation, due regard being given to qualifications/skills. Where there is no comparable permanent worker in the same establishment, the comparison shall be made by reference to the applicable collective agreement, or where there is no applicable collective agreement, in accordance with national law, collective agreements or practice.'

8 Pursuant to clause 4.1 of the framework agreement, entitled 'Principle of non-discrimination':

'In respect of employment conditions, fixed-term workers shall not be treated in a less favourable manner than comparable permanent workers solely because they have a fixed-term contract or relation unless different treatment is justified on objective grounds.'

Spanish law

9 The second additional provision of Basic Law 4/2007 of 12 April 2007, amending Basic Law 6/2001 of 21 December 2001 relating to universities (Ley Orgánica 4/2007, de 12 de abril, por la que se modifica la Ley Orgánica 6/2001, de 21 de diciembre, de universidades) (BOE No 89 of 13 April 2007, p. 16241), entitled 'College lecturers and their integration with university lecturers', provides:

'1. In order to join the body of university lecturers, college lecturers who, on the date of the entry into force of the present law, have a doctorate degree or subsequently attain such a degree and obtain specific accreditation … shall immediately be admitted into the body of university lecturers and be granted a post …

2. Universities shall introduce programmes which allow college lecturers to combine their teaching duties with the attainment of a doctorate degree.

3. Those who do not succeeded in being accredited as university lecturers shall remain in their current position, retaining all their rights and their full capacity to teach and, where appropriate, to carry out research.

…'

10 Under Law 4/2012 of 4 July 2012 amending the General Budget Act of the Community of Madrid for 2012 and introducing urgent measures to streamline public spending and promote economic activity (Ley 4/2012 de modificación de la ley de presupuestos generales de la Comunidad de Madrid para el año 2012 y de medidas urgentes de racionalización del gasto público e impulso y agilización de la actividad económica) (BOE No 247 of 13 October 2012, p. 73244), provision was made, in particular, to change the working hours of interim teaching staff who were not specifically accredited in accordance with point 1 of the second additional provision of Basic Law 4/2007 by switching them from full-time to part-time posts.

The dispute in the main proceedings and the questions referred for a preliminary ruling

11 Mr Rodrigo Sanz has worked for the UPM, at the Escuela Téchnica Superior de Arqitectura de Madrid (College of Architecture of Madrid), since 1983.

12 On 7 November 1989 he was appointed to a full-time civil service post on a temporary basis as a college lecturer (*profesor titular de escuela universitaria*). His job description, working times and number of working hours have not changed since then.

13 With a view to restructuring the organisation of universities in Spain, Basic Law 4/2007 made provision for college lecturers to be integrated into the body of university lecturers, provided they had a doctorate degree.

14 In addition, as part of the measures to be taken as a result of the budget cuts imposed by Law 4/2012, the Board of Directors of the UPM decided to reduce the working hours of teaching staff employed as interim civil servants who were not accredited as assistant lecturers in fixed-term posts or as university lecturers in permanent posts, or as tenured university lecturers, posts for which a doctorate degree is required.

15 Since Mr Rodrigo Sanz did not hold a doctorate degree, he was informed, on 19 November 2012, that his full-time post had been switched to a part-time post, with the consequent reduction in wages.

16 Mr Rodrigo Sanz brought an action for annulment of that decision on the ground that it was not coherent with either the teaching needs or the needs of the department in which he taught, and only met considerations relating to the reduction of university spending. He claimed that, since it applied only to interim civil servants, that decision resulted in such workers being treated less favourably than comparable permanent civil servants.

17 The UPM argues that the measure at issue provides a quality guarantee which makes it possible to assess the performance of the teaching, research and management activities carried out by the university teaching staff. It contends that, in the light of the self-organisation prerogative of State authorities, that measure constitutes an appropriate response to the decline in enrolment of recent years.

18 The referring court, the Juzgado de lo Contencioso-Administrativo No 8 de Madrid (Administrative Court No 8, Madrid, Spain), notes that the framework agreement provides, inter alia, that fixed-term workers may not be treated in a less favourable manner than comparable permanent workers solely because they have a fixed-term contract.

19 The referring court points out that the Spanish legislation which provides for college lecturers to be integrated into the body of university lecturers expressly states that those who do not succeeded in becoming university lecturers by means of the accreditation procedure will remain in their current position and retain all their rights. Yet, in practice, the university administration applied that provision only to teaching staff that were permanent civil servants and excluded interim civil servants on the basis of the fundamental difference between permanent and interim civil servants: the former have successfully completed a selection process which results in the creation of a post, while the latter are appointed solely due to the necessity and urgency of filling a vacant post.

20 According to the referring court, the characteristics of the posts held, the nature of the work, the tasks assigned and the training required are identical for both teacher categories. Moreover, it states that it has been established that the sole reason for the reduction in working hours was the reduction of expenditure, even though the teaching needs of the department remain the same, as recent public calls for applications prove the continuing need for the position to be filled on a full-time basis.

21 The referring court therefore asks whether the application of national legislation of that nature complies with the framework agreement when it results in the working hours of non-permanent teaching staff who do not have a doctorate degree being reduced by half, whereas members of the teaching staff who are employed as civil servants but do not have a doctorate degree retain their full rights and do not suffer any disadvantage.

22 In those circumstances, the Juzgado de lo Contencioso-Administrativo No 8 de Madrid (Administrative Court No 8, Madrid), decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

‘1. Must clause 4 of the framework agreement be construed as precluding rules such as those described from allowing a reduction in working hours solely because the person involved is an interim civil servant?

If the answer is in the affirmative:

— Can the economic situation, which makes a reduction in expenditure necessary, and which has been compelled by the reduction in the budget appropriation, be regarded as an objective ground which justifies this difference in treatment?

— Can the administration’s prerogative to organise itself be regarded as an objective ground which justifies this difference in treatment?

2. Must clause 4 of the framework agreement be construed to the effect that the administration's prerogative to organise itself is, always and in any event, limited by the obligation not to discriminate against or to treat differently employees in its service, irrespective of whether they are classified as career civil servants, or interim, casual or temporary civil servants?

3. Can the interpretation and application of point 3 of the second additional provision of Basic Law 4/2007 be construed as being contrary to clause 4 of the framework agreement in so far as, in the process for college lecturers joining the body of university lecturers, college lecturers [appointed on a permanent basis] are allowed to retain all their rights and their full capacity to teach, even though they do not have a doctorate degree, while this is not allowed for interim college lecturers?

4. In so far as the requirement for a doctorate degree is the objective justification claimed for interim college lecturers without such a degree having their working hours reduced to 50%, which does not, however, apply to non-interim college lecturers who do not have a doctorate degree either, can this be construed as discriminatory and therefore contrary to clause 4 of the framework agreement?'

Consideration of the questions referred

23 By its questions, which it is appropriate to consider together, the referring court asks, in essence, whether clause 4(1) of the framework agreement must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which, in the context of measures restructuring the organisation of universities, authorises the competent authorities of the Member State concerned to reduce by half the working hours of college lecturers employed as interim civil servants on account of them not having a doctorate degree, whereas those employed as permanent civil servants who do not have a doctorate degree are not subject to the same measure.

24 Pursuant to Article 99 of the Rules of Procedure of the Court of Justice, where the answer to a question referred to the Court for a preliminary ruling may be clearly deduced from existing case-law or admits of no reasonable doubt, the Court may at any time, on a proposal from the Judge-Rapporteur and after hearing the Advocate General, give its decision by reasoned order.

25 It is appropriate to apply that provision in the present case. Indeed, the answer to the questions referred may be clearly deduced from the Court's case-law, in particular the judgments of 13 September 2007, *Del Cerro Alonso* (C-307/05, EU:C:2007:509); 22 December 2010, *Gavieiro Gavieiro and Iglesias Torres* (C-444/09 and C-456/09, EU:C:2010:819); 8 September 2011, *Rosado Santana* (C-177/10, EU:C:2011:557); 18 October 2012, *Valenza and Others* (C-302/11 to C-305/11, EU:C:2012:646); 12 December 2013, *Carratù* (C-361/12, EU:C:2013:830); and 14 September 2016, *de Diego Porras* (C-596/14, EU:C:2016:683); and order of 21 September 2016, *Álvarez Santirso* (C-631/15, EU:C:2016:725).

26 First, it is clear from that case-law that Directive 1999/70 and the framework agreement are applicable to all workers providing remunerated services in the context of a fixed-term employment relationship linking them to their employer (judgments of 13 September 2007, *Del Cerro Alonso*, C-307/05, EU:C:2007:509, paragraph 28; 22 December 2010, *Gavieiro Gavieiro and Iglesias Torres*, C-444/09 and C-456/09, EU:C:2010:819, paragraph 42; and 8 September 2011, *Rosado Santana*, C-177/10, EU:C:2011:557, paragraph 40; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 27).

27 The provisions laid down in the framework agreement are intended to apply to fixed-term employment contracts and relationships concluded with the public authorities and other public-sector bodies (judgment of 22 December 2010, *Gavieiro Gavieiro and Iglesias Torres*, C-444/09 and C-456/09, EU:C:2010:819, paragraph 38 and the case-law cited; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 28).

28 Since Mr Rodrigo Sanz has been employed by the UPM for over 30 years as an interim civil servant performing various teaching duties on the basis of various fixed-term appointments, he comes within the scope of Directive 1999/70 and the framework agreement.

29 Next, it should be recalled that, according to clause 1(a) of the framework agreement, one of its objectives is to improve the quality of fixed-term work by ensuring the application of the principle of non-discrimination. Similarly, the third paragraph in the preamble to the framework agreement states that it 'illustrates the willingness of the Social Partners to establish a general framework for ensuring equal treatment for fixed-term workers by protecting them against discrimination'. Recital 14 of Directive 1999/70 states, with that in view, that the aim of the framework agreement is, in particular, to improve the quality of fixed-term work by setting out minimum requirements in order to ensure the application of the principle of non-discrimination (judgment of 22 December 2010, *Gavieiro Gavieiro and Iglesias Torres*, C-444/09 and C-456/09, EU:C:2010:819, paragraph 47; and 14 September 2016, *de Diego Porras*, C-596/14, EU:C:2016:683, paragraph 25; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 31).

30 The framework agreement, in particular clause 4 thereof, aims to apply the principle of non-discrimination to fixed-term workers in order to prevent an employer using such an employment relationship to deny those workers rights which are recognised for permanent workers (judgments of 13 September 2007, *Del Cerro Alonso*, C-307/05, EU:C:2007:509, paragraph 37; 22 December 2010, *Gavieiro Gavieiro and Iglesias Torres*, C-444/09 and C-456/09, EU:C:2010:819, paragraph 48; and 14 September 2016, *de Diego Porras*, C-596/14, EU:C:2016:683, paragraph 26; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 32).

31 In the light of the objectives pursued by the framework agreement, clause 4 of that agreement must be understood as expressing a principle of EU social law which cannot be interpreted restrictively (see, to that effect, judgments of 13 September 2007, *Del Cerro Alonso*, C-307/05, EU:C:2007:509, paragraph 38; 22 December 2010, *Gavieiro Gavieiro and Iglesias Torres*, C-444/09 and C-456/09, EU:C:2010:819, paragraph 49; and 14 September 2016, *de Diego Porras*, C-596/14, EU:C:2016:683, paragraph 27; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 33).

32 Accordingly, the Court has held that the decisive criterion for determining whether a measure falls within the scope of 'employment conditions' within the meaning of clause 4(1) of the framework agreement is, precisely, the criterion of employment, that is to say the employment relationship between a worker and his employer (see, to that effect, judgments of 12 December 2013, *Carratù*, C-361/12, EU:C:2013:830, paragraph 35; and 14 September 2016, *de Diego Porras*, C-596/14, EU:C:2016:683, paragraph 28; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 34.

33 In that regard, it is clear from the documents submitted to the Court that the reduction of working hours by half and the consequent reduction in wages fully satisfies the decisive criterion referred to in the previous paragraph of the present order and must therefore be considered to be covered by the concept of 'employment conditions' within the meaning of clause 4(1) of the framework agreement.

34 Lastly, as regards the employment conditions, within the meaning of clause 4(1) of the framework agreement, to which fixed-term workers are subject, it is clear from the settled case-law of the Court that those conditions must not be less favourable than those applicable to permanent workers in a comparable situation, unless different treatment of those two categories of workers is justified on objective grounds (see, to that effect, judgments of 13 September 2007, *Del Cerro Alonso*, C-307/05, EU:C:2007:509, paragraphs 42 and 47; 22 December 2010, *Gavieiro Gavieiro and Iglesias Torres*, C-444/09 and C-456/09, EU:C:2010:819, paragraph 53; 8 September 2011, *Rosado Santana*, C-177/10,

EU:C:2011:557, paragraphs 56, 57 and 64; and 14 September 2016, *de Diego Porras*, C-596/14, EU:C:2016:683, paragraph 34; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 40).

35 In the present case, it is common ground that there is a difference in the treatment of college lecturers employed as interim civil servants and those employed as permanent civil servants, in so far as only the former had their working hours and, accordingly, their wages reduced by half solely because they did not have a doctorate degree.

36 In view of the difference in treatment found, it must first be ascertained whether college lecturers employed as interim civil servants and those employed as permanent civil servants are in a comparable situation.

37 The term 'comparable permanent worker' is defined in clause 3(2) of the framework agreement as 'a worker with an employment contract or relationship of indefinite duration, in the same establishment, engaged in the same or similar work/occupation, due regard being given to qualifications/skills' (order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 42).

38 In order to assess whether workers are engaged in the same or similar work for the purposes of the framework agreement, it must first be determined, in accordance with clauses 3(2) and 4(1) of that agreement, whether, in the light of a number of factors, such as the nature of the work, training requirements and working conditions, those workers can be regarded as being in a comparable situation (judgments of 18 October 2012, *Valenza and Others*, C-302/11 to C-305/11, EU:C:2012:646, paragraph 42; and 14 September 2016, *de Diego Porras*, C-596/14, EU:C:2016:683, paragraph 40; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 43).

39 While, ultimately, it is for the referring court to determine whether college lecturers employed as interim civil servants and those employed as permanent civil servants are in a comparable situation (see, by analogy, judgments of 8 September 2011, *Rosado Santana*, C-177/10, EU:C:2011:557, paragraph 67; 18 October 2012, *Valenza and Others*, C-302/11 to C-305/11, EU:C:2012:646, paragraph 43 and 14 September 2016, *de Diego Porras*, C-596/14, EU:C:2016:683, paragraph 42; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 44), it is clear from the information in the order for reference that, for each of those two teacher categories, the characteristics of the posts held, the nature of the work, the tasks assigned and the training required are identical.

40 It is therefore apparent that the only factor that differentiates the situation of a college lecturer employed as an interim civil servant from that of a college lecturer employed as a permanent civil servant is the temporary nature of the employment relationship which links the former to his employer.

41 Since those two categories of teacher are in a comparable situation, it is necessary to examine, in the second place, whether there are objective grounds, within the meaning of clause 4(1) of the framework agreement, for the difference in treatment identified in paragraph 35 of the present order.

42 In that regard, the mere fact that a difference in treatment between fixed-term workers and permanent workers is provided for by a general, abstract national norm, such as a law or collective agreement, does not constitute an 'objective ground', within the meaning of clause 4(1) of the framework agreement, capable of justifying such a difference in treatment (see, to that effect, judgments of 13 September 2007, *Del Cerro Alonso*, C-307/05, EU:C:2007:509, paragraph 57; 22 December 2010, *Gavieiro Gavieiro and Iglesias Torres*, C-444/09 and C-456/09, EU:C:2010:819, paragraph 54; 8 September 2011, *Rosado Santana*, C-177/10, EU:C:2011:557, paragraph 72; and 14 September 2016, *de Diego Porras*, C-596/14, EU:C:2016:683, paragraph 46; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 48).

43 Reliance on the mere fact of the temporary nature of the employment of staff of the public administration is therefore not capable of constituting an 'objective ground' within the meaning of clause 4(1) of the framework agreement (judgments of 22 December 2010, *Gavieiro Gavieiro and Iglesias Torres*, C-444/09 and C-456/09, EU:C:2010:819, paragraph 56; 8 September 2011, *Rosado Santana*, C-177/10, EU:C:2011:557, paragraph 74; and 14 September 2016, *de Diego Porras*, C-596/14, EU:C:2016:683, paragraph 47; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 49).

44 A difference in treatment with regard to employment conditions as between fixed-term workers and permanent workers cannot be justified on the basis of a criterion which, in a general and abstract manner, refers precisely to the term of the employment. If the mere temporary nature of an employment relationship were held to be sufficient to justify such a difference, the objectives of Directive 1999/70 and the framework agreement would be negated. Instead of improving the quality of fixed-term work and promoting the equal treatment to which both Directive 1999/70 and the framework agreement aspire, reliance on such a criterion would amount to perpetuating a situation that is disadvantageous to fixed-term workers (judgment of 22 December 2010, *Gavieiro Gavieiro and Iglesias Torres*, C-444/09 and C-456/09, EU:C:2010:819, paragraph 57; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 50).

45 That concept therefore requires the unequal treatment found to exist to be justified by the existence of precise and specific factors, characterising the employment condition to which it relates, in the specific context in which it occurs and on the basis of objective and transparent criteria, in order to ensure that that unequal treatment in fact responds to a genuine need, is appropriate for achieving the objective pursued and is necessary for that purpose. Those factors may result, in particular, from the specific nature of the tasks for the performance of which fixed-term contracts have been concluded and from the inherent characteristics of those tasks or, as the case may be, from pursuit of a legitimate social-policy objective of a Member State (judgments of 13 September 2007, *Del Cerro Alonso*, C-307/05, EU:C:2007:509, paragraphs 53 and 58; 22 December 2010, *Gavieiro Gavieiro and Iglesias Torres*, C-444/09 and C-456/09, EU:C:2010:819, paragraph 55; 8 September 2011, *Rosado Santana*, C-177/10, EU:C:2011:557, paragraph 73; and 14 September 2016, *de Diego Porras*, C-596/14, EU:C:2016:683, paragraph 45; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 51).

46 In the present case, it is apparent from the order for reference that the UPM considers that the difference in treatment is justified on objective grounds, namely the budgetary restrictions faced by colleges and the decline in student enrolment numbers, which permitted the UPM, on the basis of its self-organisation prerogative, to decide that lecturers employed by that university as interim civil servants would have their working hours reduced by half.

47 With regard to the discretion enjoyed by Member States in the organisation of their own public administrations, they can, in principle, without acting contrary to Directive 1999/70 or the framework agreement, lay down, inter alia, period-of-service conditions for access to certain posts, restrict access to internal promotion solely to career civil servants and require those civil servants to provide evidence of professional experience corresponding to the grade immediately below the grade concerned by the selection procedure (see, to that effect, judgments of 8 September 2011, *Rosado Santana*, C-177/10, EU:C:2011:557, paragraph 76; and 18 October 2012, *Valenza and Others*, C-302/11 to C-305/11, EU:C:2012:646, paragraph 57; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 53).

48 However, that discretion notwithstanding, Member States must ensure that such restrictions, which give rise to differential treatment, are applied in a transparent manner and subject to potential reviews, based on objective criteria, in order to prevent any exclusion of fixed-term workers solely on the basis of the duration of the contracts or employment relationships which attest to their length of service and professional experience (see, to that effect, judgments of 8 September 2011, *Rosado*

Santana, C-177/10, EU:C:2011:557, paragraph 77; and 18 October 2012, *Valenza and Others*, C-302/11 to C-305/11, EU:C:2012:646, paragraph 59; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 54).

49 Where, in a selection procedure, such a difference in treatment flows from the need to take account of objective requirements relating to the post which that procedure is intended to fill and which are unrelated to the fixed-term nature of the interim civil servant's employment relationship, it is capable of being justified for the purposes of clause 4(1) and/or (4) of the framework agreement (judgments of 8 September 2011, *Rosado Santana*, C-177/10, EU:C:2011:557, paragraph 79; and 18 October 2012, *Valenza and Others*, C-302/11 to C-305/11, EU:C:2012:646, paragraph 61; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 55).

50 On the other hand, the application of a general and abstract rule, such as that at issue in the main proceedings, which requires the working hours of college lecturers to be halved solely on the ground that they are employed as interim civil servants and do not have a doctorate degree, without taking into account other objective and transparent criteria specifically relating to the nature or object of the post in question, does not comply with the requirements of the case-law referred to in the preceding paragraphs of this order.

51 The application of such a rule is based on the general premiss that the fixed-term nature of the employment relationship of college lecturers in itself justifies differential treatment of that category of lecturers compared to those employed as permanent civil servants, even though both categories of teachers perform similar functions. Such a premise is contrary to the objectives of Directive 1999/70 and the framework agreement.

52 That finding cannot be called into question by the argument that a difference in treatment of interim staff is justified by necessary measures relating to the management of the body of university teaching staff and the budgetary restrictions imposed by the Member State concerned since the Court has already held that budgetary considerations, including those deriving from the need to ensure rigorous personnel management, cannot justify discrimination (see, to that effect, judgments of 23 October 2003, *Schönheit and Becker*, C-4/02 and C-5/02, EU:C:2003:583, paragraph 85; and 22 April 2010, *Zentralbetriebsrat der Landeskrankenhäuser Tirols*, C-486/08, EU:C:2010:215, paragraph 46).

53 Whilst budgetary considerations may underlie a Member State's choice of social policy and influence the nature or scope of the measures which it wishes to adopt, they do not in themselves constitute an aim pursued by that policy and, therefore, cannot justify the application of national legislation giving rise to a difference of treatment to the detriment of fixed-term workers (see, by analogy, judgments of 24 October 2013, *Thiele Meneses*, C-220/12, EU:C:2013:683, paragraph 43; of 26 November 2014, *Mascolo and Others*, C-22/13, C-61/13 to C-63/13 and C-418/13, EU:C:2014:2401, paragraph 110; and order of 21 September 2016, *Popescu*, C-614/15, EU:C:2016:726, paragraph 63).

54 In that respect, the arguments put forward by the UPM concerning the management of university staff and budgetary restrictions are also not based on objective and transparent criteria. Moreover, as was noted by the referring court itself, those arguments are contradicted by the facts. Indeed, the fact that the operational needs of the departments concerned have remained the same and that there have been recent public calls for applications to fill full-time posts provide evidence to the contrary.

55 Lastly, it should be added that clause 4(1) of the framework agreement is unconditional and sufficiently precise for individuals to be able to rely on it before a national court as against the State (see, to that effect, judgments of 22 December 2010, *Gavieiro Gavieiro and Iglesias Torres*, C-444/09 and C-456/09, EU:C:2010:819, paragraphs 78 to 83; 8 September 2011, *Rosado Santana*, C-177/10, EU:C:2011:557, paragraph 56; and order of 21 September 2016, *Álvarez Santirso*, C-631/15, EU:C:2016:725, paragraph 59).

56 Having regard to all of the foregoing considerations, the answer to the questions referred is that clause 4(1) of the framework agreement must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which, in the context of measures restructuring the organisation of universities, authorises the competent authorities of the Member State concerned to reduce by half the working hours of college lecturers employed as interim civil servants on account of them not having a doctorate degree, whereas university lecturers employed as permanent civil servants who also do not have a doctorate degree are not subject to the same measure.

Costs

57 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court.

On those grounds, the Court (Tenth Chamber) hereby rules:

Clause 4(1) of the framework agreement on fixed-term work concluded on 18 March 1999, which is set out in the annex 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 precluding national legislation, such as that at issue in the main proceedings, which, in the context of measures restructuring the organisation of universities, authorises the competent authorities of the Member State concerned to reduce by half the working hours of college lecturers employed as interim civil servants on account of them not having a doctorate degree, whereas university lecturers employed as permanent civil servants who also do not have a doctorate degree are not subject to the same measure.

[Signatures]