



## Reports of Cases

### Order of the Court (Eighth Chamber) of 30 April 2014 — D’Aniello and Others

(Case C-89/13)

(Article 99 of the Rules of Procedure of the Court — Reference for a preliminary ruling — Social policy — Directive 1999/70/EC — Principle of non-discrimination — National legislation providing for a compensation scheme in cases of the unlawful setting of an expiry date for an employment contract different from that in cases where an employment contract of unlimited duration is unlawfully terminated — Economic consequences — Comparability of the claims)

1. *Questions referred for a preliminary ruling — Admissibility — Need to provide the Court with sufficient information on the factual and legislative context (Art. 267 TFEU; Statute of the Court of Justice, Art. 23; Rules of Procedure of the Court, Art. 94) (see paras 17-22)*
2. *Questions referred for a preliminary ruling — Questions the answer to which may be clearly deduced from the Court’s existing case-law — Application of Article 99 of the Rules of Procedure (Rules of Procedure of the Court, Art. 99) (see paras 23-25)*
3. *Social policy — Framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP — Directive 1999/70 — Prohibition on discriminating against workers on fixed-term contracts — Compensation scheme in cases of the unlawful setting of an expiry date for an employment contract different from that in cases where an employment contract of unlimited duration is unlawfully terminated — Workers on fixed-term contracts and those on contracts of unlimited duration treated differently — Lawfulness (Council Directive 1999/70, Annex, clauses 4, point 1, and 8, point 1) (see para. 28-30,33, operative part)*

#### Re:

Request for a preliminary ruling — Tribunale di Napoli — Interpretation of clause 4 of 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) — Scope — Notion of working conditions — Horizontal applicability of that directive — Notion of State body — Interpretation of Article 47 of the Charter of Fundamental Rights and Article 6 of the ECHR — Principle of equivalence — National legislation which provides, in cases where an employment contract is unlawfully terminated, for overall compensation for the period from the point at which the employment relationship is interrupted until the employee is reintegrated into his post, which is limited to a sum of between 2.5 and 12 monthly payments of the last overall remuneration —

Compensation lower than both that provided under the general civil law system in the case of an unjustified refusal to accept a payment and that provided for the unlawful termination of a employment contract of unlimited duration — Principle of loyal cooperation.

**Operative part:**

Subject to the possibility available to the Member States by virtue of clause 8 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, clause 4(1) of that framework agreement must be interpreted as meaning that it does not require identical treatment of the economic consequences granted in cases of the unlawful setting of an expiry date for an employment contract and those paid in cases of the unlawful termination of an employment contract of unlimited duration.