



14.11.2022

NOTICE TO MEMBERS

Subject: Petition No 0486/2022 by Francisco Javier Martín Temprano (Spanish) on alleged breach of Directive 1999/70/EC concerning the framework agreement on fixed-term work in Spain

1. Summary of petition

The petitioner refers to his specific case where the European Commission has filed his complaint CHAP(2021)03749. The main subject of this complaint relates to the alleged breach of Directive 1999/70/EC concerning the framework agreement on fixed-term work in Spain. The petitioner believes that the Spanish legislation fails to comply with EU law. The Law 20/2021, of December 28, on urgent measures to reduce temporary employment in public employment and the Supreme Court Judgment of 11/30/2021 (Appeal: 6302/ 2018) comply with the latest jurisprudence of the CJEU in which it considers that 3 years are sufficient to recognize that there is abuse, but then adds that there is no sanction, as no sanction is regulated in national law.. The petitioner denounces that, despite the fact that several Spanish institutions are failing to comply with Directive 99/70/EC, the European Commission has decided to file the complaint and did not open the corresponding infringement procedure against Spain.

2. Admissibility

Declared admissible on 29 August 2022. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 14 November 2022

The Commission's observations

The complaint mentioned by the petitioner referred to the lack of correct transposition of Clause

5 of the Framework Agreement on fixed-term work annexed to Council Directive 1999/70/EC¹ of 28 June 1999 into Spanish law, as well as the absence of case law at national level that would allow an interpretation of that legislation in line with the requirements of the Framework Agreement; and requested the Commission to open an infringement procedure against Spain.

In the reply to the complaint, the Commission explained that it received a high number of similar complaints referring to the same matter, which were treated as a multiple complaint under reference number CHAP(2013)01917, and that this matter was the subject of an ongoing infringement procedure against Spain (INFR(2014)4334).

The complainant was informed that he could follow the development of the case online². The Commission concluded that there was no reason to open a duplicate infringement procedure.

Conclusion

The Commission confirms that, given the above, there is no reason to open a duplicate infringement procedure against Spain in relation to the issues described in the petition.

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 L 175, 10.7.1999, p. 43–48*.

² https://ec.europa.eu/info/about-european-commission/contact/problems-and-complaints/how-make-complaint-eu-level/joining-similar-complaints/decisions-multiple-complaints_es