

## **Information about the follow up brought to the complaints registered under reference CHAP(2013)01917**

(to consult the information included in a previous communication see [Information Notice of multiple complaint CHAP\(2013\)01917<sup>1</sup>](#))

### **Judgement of the CJEU of 19 March 2020 on joined cases C-103/18, Sanchez Ruiz, and C-429/18, Fernandez Alvarez**

In this recent judgment the Court of Justice of the European Union clarified, inter alia, that:

Clause 5 of the Framework Agreement on fixed-term work annexed to Directive 1999/70/EC, must be interpreted as precluding national legislation and case-law according to which the successive renewal of fixed-term employment relationships is justified for ‘objective reasons’, within the meaning of paragraph 1(a) of that Clause, on the sole ground that that renewal responds to the reasons for recruitment covered by that legislation, namely grounds of need, urgency or for the development of programs of a temporary, auxiliary or extraordinary nature, in so far as such national legislation and case-law does not prevent the employers concerned from fulfilling, in practice, by such renewals, fixed and permanent staffing needs<sup>2</sup>.

Nevertheless, it is for the national courts to assess, in accordance with all the applicable rules under national law, whether the organisation of selection procedures seeking to definitively fill posts occupied on a temporary basis by workers employed in the context of fixed-term employment relationships, the conversion of those workers’ status into that of ‘non-permanent workers of indefinite duration,’ and the granting to those workers of compensation equivalent to that paid in the event of unfair dismissal constitute adequate measures for the purposes of preventing and, where appropriate, punishing abuses resulting from the use of successive fixed-term employment contracts or relationships, or equivalent legal measures, within the meaning of that provision<sup>3</sup> [Clause 5 paragraph 1 of the Framework Agreement].

### **Current situation**

On 6 June 2020, the Minister for Territorial Policy and Public Function, Carolina Darias, announced<sup>4</sup> the launch of a process to prepare future amendments in the *Texto Refundido del Estatuto del Empleado Público* to modify the current regulation of fixed-term employees working in the public sector in line with EU law as interpreted by the Court of Justice of the EU.

The Commission is following the legislative process closely in order to assess the conformity of future amendments with the Framework Agreement and the relevant case law of the Court. Infringement procedure 2014/4334 regarding the potential incompatibility of Spanish national law with Clause 5 of the Framework Agreement remains open.

Complainants will be kept informed through this website<sup>5</sup> of the results of the Commission's investigation.

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<sup>1</sup> [https://ec.europa.eu/info/sites/info/files/file\\_import/information-notice-multiple-complaint-chap-2013-01917\\_en.pdf](https://ec.europa.eu/info/sites/info/files/file_import/information-notice-multiple-complaint-chap-2013-01917_en.pdf)

<sup>2</sup> Operative part of the judgment, paragraph 2).

<sup>3</sup> Paragraph 106 of the judgement.

<sup>4</sup> <https://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/territorial/Paginas/2020/040620-darias.aspx>

<sup>5</sup> [https://ec.europa.eu/info/about-european-commission/contact/problems-and-complaints/how-make-complaint-eu-level/joining-similar-complaints/decisions-multiple-complaints\\_en](https://ec.europa.eu/info/about-european-commission/contact/problems-and-complaints/how-make-complaint-eu-level/joining-similar-complaints/decisions-multiple-complaints_en)