

Reply to a multiple complaint on an alleged breach by Italy of EU rules on non-discrimination and protection of fixed-term teachers.

Reference number: CHAP (2021)03439

The European Commission has received a large number of complaints about the failure to recognise the employment record of teachers in 'scuole paritarie' (accredited private schools) for the purpose of determining their pay grade.

The complainants indicate that the Italian national education system consists of State schools and accredited 'scuole paritarie' that is to say fee-paying schools that follow the State school syllabus. Accreditation is granted to non-State schools that apply for it, provided that they meet certain conditions, stipulated by the State, regarding teacher qualifications for example. While experience acquired in accredited private schools is recognised for the purpose of awarding fixed-term teaching contracts and subsequent employment in State schools, the complainants point out that, under Article 485 of Legislative Decree No 297 of 16 April 1994, the Italian Ministry of Education does not recognise such experience for determination of the pay grades of newly recruited teaching staff, but only experience acquired in State schools or their equivalent.

The Commission has entered these complaints in the central registry of complaints under reference number CHAP(2021)03439.

Given the significant number of complaints it received on this subject, the Commission, with a view to responding swiftly and informing those concerned as well as taking into account potentially wider public interest in the issue raised by the complainants, is also publishing this acknowledgement of receipt on the [dedicated page of the Europa website](#). The complainants will be informed, through the same channel, of the results of the Commission's examination of these complaints and of the follow-up that the Commission may decide to take.

The Commission has communicated its assessment on this matter in the context of a petition addressed to the European Parliament (petition n. 1451/2020¹):

'The two main aims of the Framework Agreement on fixed-term work² are that workers who are employed on fixed-term contracts do not suffer unjustified discrimination and that successive fixed-term contracts between the same employer and employee for the same work has to be prevented, and, in case of abuse, sanctioned.

Clause 4 of the Framework Agreement forbids employers from treating fixed-term workers less favourably than permanent workers regarding their employment conditions, unless differential treatment can be justified on objective grounds. However, this clause does not apply to discrimination regarding the employment conditions of different categories of fixed-term workers.

In her petition, the petitioner states that the principle of non-discrimination has been infringed, in that service years on fixed-term contracts are recognised, for the purposes of mobility, for teachers in State schools, but not for teaching staff in State-accredited private schools. The comparison in this case is between the teachers who are fixed-term

¹ Some of the complainants to the present multiple complaint are also supporting the following petition: https://www.europarl.europa.eu/doceo/document/PETI-CM-694981_EN.pdf

² 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, OJ L 175, 10.7.1999, p. 43–48.

workers in a State school and the teachers who are fixed-term workers in a State-accredited private schools.

Differential treatment between a fixed-term teacher and another fixed-term teacher on account of whether the employer is a State school or a State-accredited private school, does not come under the scope of the Framework Agreement on fixed-term work, nor of Directives 2000/78/EC and 2006/54/EC.’

The Commission notes that the complainants do not even explain why these directives would be violated.

The Commission thus concludes that differential treatment between a fixed-term teacher and another fixed-term teacher on account of whether the employer is a State school or a State-accredited private school, is not governed by EU law.

That situation is regulated by Italian national law.

According to the file submitted by the complainants, the case has already been brought before the Constitutional Court, which held in its judgment of 30 July 2021 that ‘it is not unlawful for pre-permanent work in State-accredited private schools not to be taken into account for the purposes of career reconstruction in State schools’.

Against this background, the Commission intends to close this complaint.

Should the complainants have any new information that might be relevant for the re-assessment of this complaint, they can contact the Commission within four weeks of the publication of this notice, after which date the case will be closed.