

## SUMMARY

# **ECJ 15 December 2022, joined cases C-40/20 and C-173/20 (Presidenza del Consiglio dei Ministri e.a. (Chercheurs universitaires)), Fixed-Term Work**

## ***Various employees – v – Presidenza del Consiglio dei Ministri and Others, Italian case***

### **Summary**

A university can extend a fixed-term contract with another fixed-term contract, without making this conditional of objective reasons connected with temporary or exceptional requirements. Also, the Court rules on various other issues.

### **Questions**

Does Clause 5 of the Framework Agreement preclude a piece of national legislation which permits universities to conclude three-year fixed-term contracts with researchers, which can be extended for a maximum of two years, without making the conclusion or extension of those contracts conditional upon there being objective reasons connected with temporary or exceptional requirements?

Does Clause 5 of the Framework Agreement preclude a piece of national legislation, such as Article 22(9) of Law No 240/2010, which sets the total duration of the employment contracts that may be concluded by a single researcher, including with different universities and institutes, whether continuous or otherwise, at 12 years?

Does Clause 4 of the Framework Agreement preclude a piece of national legislation which provides for the possibility, under certain conditions, of stabilising the employment of researchers for public research bodies who have concluded a fixed-term contract but which denies that possibility to university researchers who have concluded a fixed-term contract?

Does Clause 4 of the Framework Agreement preclude a piece of national legislation which, by derogating, first, from the general rule applicable to all workers in the public and private sectors according to which, as from 2018, the maximum duration of a fixed-term relationship is set at 24 months, including extensions and renewals, and, second, from the rule applicable to public authority employees according to which the use of that type of relationship is conditional upon the existence of 'temporary and exceptional requirements', permits universities to conclude with researchers three-year fixed-term contracts, which may be extended for a maximum of two years, without making the conclusion or extension of those contracts conditional upon the existence of temporary or exceptional requirements on the part of the university, and which also permits, at the end of the five-year period, the conclusion, with the same person or with other persons, of another fixed-term contract of the same type in order to meet the same teaching and research needs as those connected with the previous contract?

Does Clause 4(1) of the Framework Agreement preclude a piece of national legislation pursuant to which only researchers who have concluded a fixed-term contract of a certain type or a contract of indefinite duration have the possibility, once they have obtained the national academic qualification, of undergoing a specific appraisal procedure in order that they may be added to the list of associate professors, whereas that possibility is denied to researchers who have concluded a fixed-term contract of another type once they have also obtained the national academic qualification, in a situation where the last group carries out the same professional activities and provides the same teaching services to students as the first two categories of researchers?

### **Ruling**

Clause 5 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, must be interpreted as not precluding a piece of national legislation which permits universities to conclude three-year fixed-term contracts with researchers, which can be extended for a maximum of two

years, without making the conclusion or extension of those contracts conditional upon there being objective reasons connected with temporary or exceptional requirements, in order to cover the everyday permanent needs of the university concerned.

Clause 5 of the framework agreement on fixed-term work, concluded on 18 March 1999, which is annexed to Directive 1999/70, must be interpreted as not precluding a piece of national legislation which sets the total duration of the employment contracts that may be concluded by a single researcher, including with different universities and institutes, whether continuous or otherwise, at 12 years.

Clause 4 of the framework agreement on fixed-term work, concluded on 18 March 1999, which is annexed to Directive 1999/70, must be interpreted as not precluding a piece of national legislation which provides for the possibility, under certain conditions, of stabilising the employment of researchers for public research bodies who have concluded a fixed-term contract but which denies that possibility to university researchers who have concluded a fixed-term contract.

Clause 4 of the framework agreement on fixed-term work, concluded on 18 March 1999, which is annexed to Directive 1999/70, must be interpreted as not precluding a piece of national legislation which, by derogating, first, from the general rule applicable to all workers in the public and private sectors according to which, as from 2018, the maximum duration of a fixed-term relationship is set at 24 months, including extensions and renewals, and, second, from the rule applicable to public authority employees according to which the use of that type of relationship is conditional upon the existence of temporary and exceptional requirements, permits universities to conclude with researchers three-year fixed-term contracts, which may be extended for a maximum of two years, without making the conclusion or extension of those contracts conditional upon the existence of temporary or exceptional requirements on the part of the university in question, and which also permits, at the end of the five-year period, the conclusion, with the same person or with other persons, of another fixed-term contract of the same type in order to meet the same teaching and research needs as those connected with the previous contract.

Clause 4(1) of the framework agreement on fixed-term work, concluded on 18 March 1999, which is annexed to Directive 1999/70, must be interpreted as precluding a piece of national legislation pursuant to which researchers who have concluded a contract of indefinite

duration have the possibility, once they have obtained the national academic qualification, of undergoing a specific appraisal procedure in order that they may be added to the list of associate professors, whereas that possibility is denied to researchers who have concluded a fixed-term contract, even once they have also obtained the national academic qualification, in a situation where those researchers carry out the same professional activities and provide the same teaching services to students as researchers who have concluded a contract of indefinite duration.

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**Creator:** European Court of Justice (ECJ)

**Verdict at:** 2022-12-15

**Case number:** C-40/20 and C-173/20