

## **Decision on the European Commission's failure to take action against Spain for its abuse of fixed-term contracts in the Spanish public sector (349/2022/PL)**

Decision

**Case 349/2022/PL - Opened on 14/03/2022 - Decision on 06/07/2022 - Institution concerned** European Commission ( No further inquiries justified ) |

Dear Mr X,

You submitted a complaint to the European Ombudsman on behalf of the Plataforma de Trabajadores Temporales contra el Abuso de Temporalidad de Castilla y León. It concerns the European Commission's failure to take action against Spain for its abuse of fixed-term contracts in the Spanish public sector.

In your complaint, you argued that the measures taken by Spain to reduce temporary employment in the public sector are in breach of EU law. You also take issue with the Commission's assessment that Spain fulfilled the related milestone [1] under the Recovery and Resilience Facility (RRF).

As a first step, we invited the Commission to reply to your request of 31 December 2021. In its reply, the Commission has confirmed that it will continue to assess infringement complaints related to the implementation of Directive 1999/70/EC in the area of the Spanish public administration. In fact, Spain's alleged abuse of successive fixed-term contracts in the public sector continues to be the subject of the ongoing infringement complaint CHAP(2013)01917. Information on this is published in the Commission's dedicated webpage for procedures involving multiple complaints.

When it comes to infringement complaints, the Commission has wide discretion, which includes determining the time needed to assess a matter and to decide on the next steps. The Ombudsman may examine whether the Commission has kept complainants properly informed as regards the progress and the position it eventually takes on a case.

The Commission has informed you that your complaint is included in CHAP (2013)01917, and has updated you on the progress in this procedure, notably that it is currently analysing the recent changes made to the Spanish legislation.



Concerning the Commission's approval of Spain's milestone related to this legislation under the Recovery and Resilience Facility (RRF), payments are linked to performance. The milestone you call into question concerns the "*entry into force of a legislative act to reduce temporary employment in public administrations*". The legislation has entered into force and, in line with the established procedure, the Commission has carried out a [preliminary assessment \[Link\]](#) of the evidence submitted, based on which it concluded that the legislation satisfactorily fulfilled the conditions of the above milestone under the RRF.

The Commission, however, emphasised in its reply that "*[t]he positive evaluation of Spain's request for payment, which included the indicated milestone, is not an obstacle for the Commission to continue investigating the complaints received, indicating a possible violation of European Union law related to the application of the Directive 1999/70/CE in the field of the Spanish public administration*". The Commission added that it is currently analysing the changes made to the Spanish legislation and that it will closely follow future legislative processes related to it with the objective of assessing the conformity of the resulting regulations with EU law and the relevant case law of the Court of Justice.

In view of the explanations provided by the Commission, and in particular its reassurance that the positive preliminary assessment of the milestone will not prevent the Commission from continuing its investigation into a possible infringement of EU law by Spain in this area, no further inquiries into the matter are justified and the case has been closed [2]. This said, we note that the Commission's latest public update on CHAP (2013)01917 in the dedicated webpage dates from August 2021. We will remind the Commission of the importance of keeping this information up to date.

We will also take this case as an opportunity to remind the Commission of the importance of transparency measures to allow for public scrutiny of the evaluation of the Member States' milestones and targets under the RRF, given the important public interests at stake. [3]

Yours sincerely,

Tina Nilsson Head of the Case-handling Unit

Strasbourg, 06/07/2022

[1] Milestone number 144 related to C11.R1: "*Entry into force of a legislative act to reduce temporary employment in public administrations*"

[2] Full information on the procedure and rights pertaining to complaints can be found at <https://www.ombudsman.europa.eu/en/document/70707> [Link]/

[3] See Letter from the European Ombudsman to the Commission in SI/6/2021/PL on the transparency and accountability of the Recovery and Resilience Facility, available at:



<https://www.ombudsman.europa.eu/en/opening-summary/en/148742> [Link]