

By his second submission, the applicant maintains that, contrary to the findings of the judgment under appeal, the new pension scheme effectively provides for a link to the cost of living in Brussels, so that the income of pensioners living in Belgium is set by taking into account solely the cost of living in the capital of that Member State, whilst the income of pensioners living in the capitals of other Member States is actually determined by a weighting which takes into account the average cost of living in the entire country. The applicant challenges, moreover, the finding of the Court of First Instance that the lawfulness of a Community legislative act cannot depend on the way in which it is applied in practice, since the measures implementing such an act are closely linked to the act itself, and relies on a breach of the rights of the defence and of the principle of the equality of the parties before the Community judicature, inasmuch as he knew of the measures implementing the new pension scheme only after the close of the written procedure.

By his final submission, the applicant challenges the Court of First Instance's finding that he had no legal interest in bringing proceedings pursuant to Article 241 EC by referring to the advantage conferred on pensioners living in a 'less expensive' Member State. In complaining of the different treatment reserved for pensioners living in a 'less expensive' Member State as compared with pensioners living in an 'expensive' Member State, he is attacking the breach of the principle of equality of purchasing power and aiming, thereby, to call into question the pension scheme resulting from the new Staff Regulations and its transitional measures.

Reference for a preliminary ruling from the Consiglio di Giustizia Amministrativa per la Regione siciliana (Italy) lodged on 13 February 2007 — Ispettorato Provinciale dell'Agricoltura di Enna, Assessorato all'agricoltura e foreste della regione Sicilia, Regione Sicilia v Domenico Valvo

(Case C-78/07)

(2007/C 117/03)

Language of the case: Italian

Referring court

Consiglio di Giustizia Amministrativa per la Regione siciliana (Italy)

Parties to the main proceedings

Appellants: Ispettorato Provinciale dell'Agricoltura di Enna, Assessorato all'agricoltura e foreste della regione Sicilia, Regione Sicilia

Respondent: Domenico Valvo

Question referred

May a farmer be refused the compensatory allowance provided for by Regulation (EEC) No 2328/91 (as amended by Regulation No 3669/93) and by Regulation (EC) No 950/97 ⁽¹⁾ on improving the efficiency of agricultural structures when he also receives a pension, in particular, a years-of-service pension?

⁽¹⁾ OJ 1997 L 142, p. 1.

Reference for a preliminary ruling from the Arbeitsgericht Bonn (Germany) lodged on 20 February 2007 — Dr Andrea Raccanelli v Max-Planck-Gesellschaft zur Förderung der Wissenschaften e.V.

(Case C-94/07)

(2007/C 117/04)

Language of the case: German

Referring court

Arbeitsgericht Bonn

Parties to the main proceedings

Applicant: Dr Andrea Raccanelli

Defendant: Max-Planck-Gesellschaft zur Förderung der Wissenschaften e.V.

Questions referred

1. Should the applicant be regarded as a worker within the meaning of the European concept of 'worker' if he is not called upon to provide any more work-related services than are doctoral students with an employment contract concluded pursuant to the Bundesangestelltentarifvertrag (federal collective agreement for public sector workers, 'BAT/2')?
2. In the event that the answer to Question 1 is in the negative: must Article 7 of Regulation (EEC) No 1612/68 on freedom of movement for workers within the Community ⁽¹⁾ be interpreted as meaning that there is no discrimination only if the applicant was at least granted the right to choose between an employment contract and a grant before his period of doctoral study with the defendant began?

3. In the event that the answer to Question 2 is that the applicant should have been granted the opportunity to conclude an employment contract, the question must be asked:

What are the consequences in law in the event of discrimination against foreign nationals?

(¹) OJ English Special Edition 1968 (II), p. 475.

Reference for a preliminary ruling from the Commissione Tributaria Provinciale di Genova (Italy) lodged on 20 February 2007 — Ecotrade SpA v Agenzia Entrate Ufficio Genoa 3

(Case C-95/07)

(2007/C 117/05)

Language of the case: Italian

Referring court

Commissione Tributaria Provinciale di Genova

Parties to the main proceedings

Applicant: Ecotrade SpA

Defendant: Agenzia Entrate Ufficio Genoa 3

Questions referred

1. Does a correct interpretation of Articles 17, 21(1) and 22 of the Sixth Council Directive 77/388/EEC (¹) of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes preclude national legislation (in particular Article 19 of DPR 633 of 26/10/72) that makes the exercise of the right to deduct value added tax, payable by a taxable person in the pursuit of his business activities, dependent on compliance with a (two-year) time limit and penalises non-compliance with annulment of that right? That question is asked with reference, in particular, to cases where the liability to VAT on the purchase of the goods or service stems from the application of the reverse charge procedure, which allows the authorities a longer period (of four years under Article 57 of DPR 633/72) in which to demand payment of the duty than the period allowed to the trader for deduction of the duty, on expiry of which the trader's right to such deduction lapses.
2. Does it follow from a correct interpretation of Article 18(1)(d) of the Sixth Council Directive 77/388/EEC of 17 May 1977 that national legislation may not, in regu-

lating the 'formalities' referred to in that provision by means of the reverse charge procedure governed by the combined provisions of Articles 17(3), 23 and 25 of DPR 633/72, make (solely to the detriment of the taxpayer) the exercise of the right to deduct permitted by Article 17 of the Directive conditional upon compliance with a time limit such as that laid down in Article 19 of DPR 633/72?

(¹) OJ 1977 L 145, p. 1.

Reference for a preliminary ruling from the Commissione Tributaria Provinciale di Genova (Italy) lodged on 20 February 2007 — Ecotrade SpA v Agenzia Entrate Ufficio Genova 3

(Case C-96/07)

(2007/C 117/06)

Language of the case: Italian

Referring court

Commissione Tributaria Provinciale di Genova

Parties to the main proceedings

Applicant: Ecotrade SpA

Defendant: Agenzia Entrate Ufficio Genova 3

Questions referred

1. Does a correct interpretation of Articles 17, 21(1) and 22 of the Sixth Council Directive 77/388/EEC (¹) of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes preclude national legislation (in particular Article 19 of DPR 633 of 26/10/72) that makes the exercise of the right to deduct value added tax, payable by a taxable person in the pursuit of his business activities, dependent on compliance with a (two-year) time limit and penalises non-compliance with annulment of that right? That question is asked with reference, in particular, to cases where the liability to VAT on the purchase of the goods or service stems from the application of the reverse charge procedure, which allows the authorities a longer period (of four years under Article 57 of DPR 633/72) in which to demand payment of the duty than the period allowed to the trader for deduction of the duty, on expiry of which the trader's right to such deduction lapses.