

**Question referred**

Does a national legislative provision (specifically, Article 60(1) of the Ley General de Seguridad Social (General Law on Social Security)) which grants the right to receive a pension supplement — in view of their contribution to social security in terms of demographics — to women who have had biological or adopted children and are in receipt of a contributory retirement, widow's or permanent incapacity pension under any scheme within the social security system, but, on the other hand, does not grant that right to men in an identical situation, infringe the principle of equal treatment which prohibits all discrimination on grounds of sex, enshrined in Article 157 of the Treaty on the Functioning of the European Union and in Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, as amended by Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002<sup>(1)</sup> and recast by Directive 2006/54/EC<sup>(2)</sup> of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation?

<sup>(1)</sup> Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ 2002 L 269, p. 15).

<sup>(2)</sup> Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ 2006 L 204, p. 23).

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**Action brought on 13 July 2018 — Republic of Slovenia v Republic of Croatia****(Case C-457/18)**

(2018/C 399/27)

*Language of the case: Slovenian***Parties***Applicant:* Republic of Slovenia (represented by: M. Menard)*Defendant:* Republic of Croatia**Form of order sought**

The applicant claims that the Court should declare that the defendant has infringed:

- Article 2 TEU and Article 4(3) TEU;
- Article 5(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, together with Annex I thereto, configuring the European Union system for controlling, verifying and implementing the rules of the Common Fisheries Policy, which was established by Regulation No 1224/2009 and by Implementing Regulation No 404/2011;
- Articles 4 and 17 of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders, together with Article 13 thereof; and
- Article 2(4) and Article 11(1) of Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning.

The applicant also claims that the Court should:

- order the defendant to put an end to the infringements mentioned above without delay; and
- order the defendant to pay the costs.

### **Pleas in law and main arguments**

In support of its action, the applicant raises the following pleas in law.

First plea in law:

By unilaterally falling short of the commitment, which it made during the EU accession process, to comply with the arbitration award and thus with the boundary delimited by that award and the other obligations imposed thereby, the Republic of Croatia refuses to respect the rule of law, which is a fundamental value of the European Union (Article 2 TEU).

Second plea in law:

By virtue of the fact that it unilaterally refuses to fulfil its obligations under the arbitration award, while at the same time preventing Slovenia from fully exercising its sovereignty over certain parts of its territory under the Treaty, the Republic of Croatia is in breach of its duty of sincere cooperation with the European Union and with the Republic of Slovenia as laid down in Article 4(3) TEU. The Republic of Croatia's conduct is jeopardising the attainment of the objectives of the European Union, peace-building and an ever closer union between nations, and the objectives of the Union rules relating to the territory of the Member States (first subparagraph of Article 4(3) TEU). In addition, the Republic of Croatia is making it impossible for the Republic of Slovenia to implement EU law throughout its mainland and marine territory and to act in accordance with that law, and in particular in compliance with the secondary Union rules relating to the territory of the Member States (first subparagraph of Article 4(3) TEU).

Third plea in law:

The Republic of Croatia is infringing Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, and in particular the mutual access regime laid down in Article 5 thereof and Annex I thereto. The regime, which applies to Croatia and Slovenia since 30 December 2017, grants 25 fishing vessels from each country free access to the other country's territorial sea, as determined according to international law, that is, under the arbitration award. The Republic of Croatia is not permitting the Republic of Slovenia to exercise its rights under that regime and is thus infringing Article 5 of that regulation due to the fact that: (i) it is refusing to implement the mutual access regime; (ii) it is refusing to recognise the validity of the legislation adopted by the Republic of Slovenia for that purpose; and (iii) by systematically applying fines, it is denying Slovenian fishing vessels free access to the marine waters which the arbitration award of 2017 has defined as Slovene, and, a fortiori, free access to Croatian waters falling within the scope of the mutual access regime.

Fourth plea in law:

The Republic of Croatia is infringing Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy and Implementing Regulation (EU) No 404/2011 of 8 April 2011. Croatian police patrol boats, without authorisation from the Republic of Slovenia, are accompanying Croatian fishing vessels when they fish in Slovenian waters, thereby preventing Slovenian fishing inspectors from carrying out controls. At the same time, the Croatian authorities are imposing fines on Slovenian fishing vessels for unlawful boundary crossing and illegal fishing when they fish in Slovenian waters which Croatia claims for itself. In addition, Croatia is not sending Slovenia the data regarding the activities of Croatian vessels in Slovenian waters, as is required by those two regulations. Thus, the Republic of Croatia is not permitting the Republic of Slovenia to carry out controls in waters under its sovereignty and jurisdiction and is not respecting Slovenia's exclusive jurisdiction as a coastal State in its territorial sea, thereby infringing Regulation (EC) No 1224/2009 and Regulation (EU) No 404/2011.

Fifth plea in law:

The Republic of Croatia has infringed and continues to infringe Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code). Croatia does not recognise the boundaries established by the arbitration award as a common boundary with Slovenia, is not cooperating with Slovenia to protect that 'external border', and is not in a position to guarantee adequate protection of that border, so that it is infringing Articles 13 and 17 of that regulation, and Article 4 thereof, which requires borders to be established in accordance with international law.

Sixth plea in law:

The Republic of Croatia has infringed and continues to infringe Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning, which is to apply to ‘marine waters’ of Member States, as defined in accordance with the relevant provisions of the United Nations Convention on the Law of the Sea of 1982 (‘Unclos’) (Article 2(4) of the directive). The Republic of Croatia rejects the arbitration award which has established that delimitation of the boundaries and — on the contrary — includes Slovenian waters in its own maritime spatial planning: consequently, it does not allow for harmonisation with the geographical maps of the Republic of Slovenia, thereby infringing that directive, in particular Articles 8 and 11 thereof.

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**Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 16 July 2018 — AV, BU  
v Comune di Bernareggio**

**(Case C-465/18)**

(2018/C 399/28)

*Language of the case: Italian*

**Referring court**

Consiglio di Stato

**Parties to the main proceedings**

*Appellants:* AV, BU

*Respondent:* Comune di Bernareggio

**Question referred**

Do the principles of freedom of establishment, non-discrimination, equal treatment, the protection of competition and freedom of movement for workers, referred to in Articles 45, 49 to 56 and 106 TFEU and in Articles 15 and 16 of the Charter of Fundamental Rights of the European Union, and the requirements of proportionality and reasonableness inherent in those principles, preclude a provision of national law, such as Article 12(2) of Law No 362/1991, which, in the event of the transfer of ownership of a municipal pharmacy, confers a right of pre-emption on the employees of the pharmacy in question?

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**Appeal brought on 18 July 2018 by the Federal Republic of Germany against the judgment of the  
General Court (Fifth Chamber) of 8 May 2018 in Case T-283/15, Esso Raffinage v European Chemicals  
Agency**

**(Case C-471/18 P)**

(2018/C 399/29)

*Language of the case: English*

**Parties**

*Appellant:* Federal Republic of Germany (represented by: P. Klappich and C. Schmidt, Rechtsanwälte)

*Other parties to the proceedings:* Esso Raffinage, European Chemicals Agency, French Republic, Kingdom of the Netherlands

**Form of order sought**

The appellant claims that the Court should:

— set aside the judgment of the General Court of the European Union of 8 May 2018 in Case T-283/15;