

Case C-99/89

Francisco Yáñez-Campoy

v

Bundesanstalt für Arbeit

(Reference for a preliminary ruling
from the Sozialgericht, Frankfurt am Main)

(Social security for migrant workers
— Family allowances)

Report for the Hearing	4098
Opinion of Mr Advocate General Lenz delivered on 6 June 1990	4114
Judgment of the Court (Sixth Chamber), 13 November 1990	4125

Summary of the Judgment

Social security for migrant workers — Family benefits — Worker subject to the legislation of one Member State — Family members residing in another Member State — Transitional arrangements introduced by Article 60 of the Act of Accession of Spain pending the entry into force of the uniform solution for all the Member States referred to in Article 99 of Regulation No 1408/71 — Application by analogy of Article 73(2) of Regulation No 1408/71 — Article 73(2) declared by the Court to be invalid — Effects — Generalization of the arrangements established by Article 73(1) bringing about the entry into force of the uniform solution — Date of application of Article 73(1) to Spanish workers
(EEC Treaty, Art. 51; Act of Accession of 1985, Art. 60; Council Regulation No 1408/71, Arts 73(1) and (2) and 99)

The uniform solution for all the Member States provided for in Article 99 of Regulation No 1408/71, in the version enacted in Regulation No 2001/83, entered into force on 15 January 1986 following the judgment

of the Court of the same date in which Article 73(2) of that regulation was declared to be void *ab initio*; that declaration of invalidity entailed that, in the absence of new rules in conformity with Article 51 of

the Treaty, the system for the payment of family benefits laid down in Article 73(1) was of general application.

The entry into force of that uniform solution meant that, under Article 60 of the

Act of Accession of Spain, the application of Article 73(1) of Regulation No 1408/71 could, with effect from 15 January 1986, be relied on by Spanish workers employed in a Member State other than Spain the members of whose families reside in Spain.

REPORT FOR THE HEARING in Case C-99/89*

I — Facts and procedure

A — *Legal framework*

Article 73(1) and (2) of Regulation (EEC) No 1408/71 of the Council on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (Official Journal, English Special Edition 1971 (II) p. 416), before being amended by Council Regulation (EEC) No 3427/89 of 30 October 1989 (Official Journal L 331, p. 1), provided as follows:

‘(1) A worker subject to the legislation of a Member State other than France shall be entitled to the family benefits provided for by the legislation of the first Member State for members of his family residing in the territory of another Member State, as though they were residing in the territory of the first State.

(2) A worker subject to French legislation shall be entitled, in respect of members of his family residing in the territory of a Member State other than France, to the family allowances provided for by the legislation of such Member State; the worker must satisfy the conditions regarding employment on which French legislation bases entitlement to such benefits.’

Article 99 of Regulation No 1408/71, now repealed by Article 1(4) of Regulation No 3427/89, provided as follows:

‘Before 1 January 1973 the Council shall, on a proposal from the Commission, re-examine the whole problem of payment of family benefits to members of families who are not residing in the territory of the

* Language of the case: German.