

**Joined Cases 379 to 381/85 and 93/86**

**Caisse régionale d'assurance maladie Rhône-Alpes**

v

**Anna Giletti**

**Directeur régional des affaires sanitaires et sociales de Lorraine**

v

**Domenico Giardini**

**Caisse régionale d'assurance maladie du Nord-Est**

v

**Feliciano Tampan**

**Severino Severini**

v

**Caisse primaire centrale d'assurance maladie**

(reference for a preliminary ruling  
from the Cour de cassation of the French Republic)

(Social security — Concept of social assistance benefits)

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**Summary of the Judgment**

- 1. Social Security for migrant workers — Community regulations — Matters covered — Supplementary allowance paid to recipients of pensions by a National Solidarity Fund — Included*

*(Council Regulation No 1408/71, Art. 4 (4))*

2. *Social security for migrant workers — Benefits — Residence clauses — Waiver — Claim to or retention of entitlement to benefits precluded because the person concerned resides in another Member State — Not permissible*  
(Council Regulation No 1408/71, Art. 10 (1))

1. Article 4 (4) of Regulation No 1408/71 must be interpreted as not excluding from the scope of that regulation a supplementary allowance paid by a Fonds national de solidarité [National Solidarity Fund] financed from tax revenue and granted to the recipients of old-age, survivors' or invalidity pensions with a view to providing them with a minimum means of subsistence, provided that the persons concerned have a legally protected right to the grant of such an allowance.
2. Article 10 of Regulation No 1408/71 must be interpreted as meaning that a person may not be precluded from acquiring or retaining entitlement to the benefits, pensions and allowances referred to in that provision on the sole ground that he does not reside within the territory of the Member State in which the institution responsible for payment is situated.

## REPORT FOR THE HEARING

delivered in Joined Cases 379 to 381/85 and 93/86 \*

### I — Facts and procedure

#### 1. *The national legislation at issue*

In France, a 'Fonds national de solidarité' [National Solidarity Fund] was set up with a view to promoting a general welfare policy for old people, in particular by improving retirement and other pensions and old-age allowances. The fund grants an 'allocation supplémentaire' (supplementary allowance) to the recipients of old-age or invalidity benefits where their resources are inadequate. At the present time, the conditions for the grant of the allowance

are laid down in particular by Articles L 815-1 to 815-11 of the Code de la sécurité sociale [Social Security Code]. It appears from those provisions that the supplementary allowance is financed out of tax revenue and that there is no requirement that the person to whom it is granted should be a retired employed or self-employed worker. The benefit is paid as a supplement to resources of any kind, including contributory benefits, so as to achieve what is regarded as the indispensable minimum level, having regard to the cost of living in France. Under Article L 815-11 of the Code, the supplementary allowance is payable to foreign nationals residing in France only in accordance with reciprocal

\* Language of the Case: French.