

## Case C-342/88

**Rijksdienst voor Pensioenen**

v

**E. Spits**

(reference for a preliminary ruling  
from the Arbeidshof Gent)

(Social security — Old-age benefits —  
Regulation (EEC) No 1408/71 — Article 46)

Report for the Hearing .....	2260
Opinion of Mr Advocate General Tesauo delivered on 6 February 1990 .....	2265
Judgment of the Court (First Chamber), 6 June 1990 .....	2268

### Summary of the Judgment

*Social security for migrant workers — Old-age and death insurance — Calculation of benefits — Determination of the independent benefit referred to in Article 46(1) of Regulation No 1408/71*

*(Council Regulation No 1408/71, Arts 12(2) and 46(1))*

In determining the amount of the independent benefit referred to in Article 46(1) of Regulation No 1408/71, the competent institution of a Member State must, in accordance with Article 12(2) of the regulation, disregard any national provision precluding the overlapping of benefits and

therefore any period of insurance completed in another Member State and take into account any administrative practice which permits derogation from the strict application of the national legislation in favour of national workers.