



Reports of Cases

Case C-39/10

European Commission
v
Republic of Estonia

(Failure of a Member State to fulfil obligations — Freedom of movement for workers — Income tax — Allowance — Retirement pensions — Effect on small pensions — Discrimination between resident and non-resident taxpayers)

Summary of the Judgment

1. *Procedure — Application initiating proceedings — Formal requirements — Identification of the subject-matter of the dispute — Brief summary of the pleas in law on which the application is based — Unambiguous wording of the form of order sought by the applicant*

(Art. 258 TFEU; Rules of Procedure of the Court of Justice, Art. 38(1)(c))

2. *Freedom of movement for persons — Workers — Equal treatment — Income tax — National legislation excluding non-resident pensioners, not taxable in their Member State of residence because of the modest amount of their pensions, from benefiting from allowances — Not permissible*

(Art. 45 TFEU; EEA Agreement, Art. 28)

1. It follows from Article 38(1)(c) of the Court's Rules of Procedure and the related case-law that an application must state clearly and precisely the subject-matter of the proceedings and a summary of the pleas in law on which the application is based, so as to enable the defendant to prepare a defence and the Court to rule on the application. It follows that the essential points of law and of fact on which an action is based must be indicated coherently and intelligibly in the application itself and that the heads of claim must be set out unambiguously so that the Court does not rule *ultra petita* or indeed fail to rule on a complaint.

Where an action is brought under Article 258 TFEU, the application must set out the complaints coherently and precisely, so that the Member State and the Court can know exactly the full extent of the alleged infringement of European Union law, a condition which must be satisfied if the Member State is to be able to present an effective defence and the Court to determine whether there has been a breach of obligations, as alleged.

(see paras 24, 26)

2. A Member State which excludes non-resident pensioners from benefiting from the allowances laid down by that State's law on income tax where, because of the modest amount of their pensions, they are not taxable in the Member State of residence under the tax legislation of that State fails to fulfil its obligations under Article 45 TFEU and Article 28 of the Agreement on the European Economic Area.

National legislation which takes no account of the personal and family circumstances of the taxpayers concerned is liable to penalise persons who have made use of the opportunities offered by the rules on freedom of movement for workers, and is therefore incompatible with the requirements of the Treaties as they follow from Article 45 TFEU.

(see paras 58, 68, operative part)