



Reports of Cases

Judgment of the Court (Eighth Chamber) of 14 October 2021 – INSS (Survivor’s pension based on a de facto partnership)

(Case C-244/20)¹

(Reference for a preliminary ruling – Directive 79/7/EEC – Article 3(2) – Equal treatment for men and women in matters of social security – Survivors’ benefits – Survivor’s pension based on a de facto partnership – Exclusion clause – Validity – Prohibition of any discrimination based on sex – Benefit which does not come within the scope of Directive 79/7 – Inadmissibility – Article 21(1) of the Charter of Fundamental Rights of the European Union – Non-discrimination on grounds of sex – Article 17(1) of the Charter of Fundamental Rights of the European Union – Right to property – Legal situation which does not come within the scope of EU law – Lack of jurisdiction)

1. *Social policy – Equal treatment for men and women in matters of social security – Material scope of Directive 79/7 – Survivor’s pension based on a de facto partnership – Survivor’s benefits – Exclusion from the scope of the abovementioned directive and Directive 2006/54*

(European Parliament and Council Directive 2006/54; Council Directive 79/7, Art. 3(2))

(see paras 35-40, 67)

2. *Questions referred for a preliminary ruling – Assessment of validity – Equal treatment for men and women in matters of social security – Directive 79/7 – Question concerning the validity of the exclusion clause for survivors’ benefits provided for in that directive – Survivor’s pension based on a de facto partnership falling outside the scope of that directive notwithstanding the existence of that clause – Inadmissibility*

(European Parliament and Council Directive 2006/54, Art. 7(1)(a); Council Directive 79/7, Arts 3(1) and (2) and 4(1))

(see paras 41-54, operative part 1)

3. *Questions referred for a preliminary ruling – Jurisdiction of the Court – Limits – Request for an interpretation of the Charter of Fundamental Rights – National legislation not constituting a measure implementing EU law – Lack of jurisdiction of the Court*

¹ OJ C 320,28.9.2020.

(Art. 6(1) TEU; Art. 19 TFEU; Charter of Fundamental Rights of the European Union, Art. 51(1) and (2))

(see paras 57, 59-63, 68, 69, operative part 2)

Operative part

The Court:

1. The first question referred for a preliminary ruling by the Tribunal Superior de Justicia de Cataluña (High Court of Justice of Catalonia, Spain) is inadmissible;
2. The Court of Justice of the European Union has no jurisdiction to answer the second to fourth questions referred for a preliminary ruling by the Tribunal Superior de Justicia de Cataluña (High Court of Justice of Catalonia).