

JUDGMENT OF THE COURT

(Fourth Chamber)

of 20 January 2005

in Case C-101/04 (Reference for a preliminary ruling from the Arbeidsrechtbank Gent (Belgium): Roger Noteboom v Rijksdienst voor Pensioenen ⁽¹⁾)

(Social security for migrant workers — Regulation (EEC) No 1408/71 — Old-age benefits — ‘Holiday pay’ given to persons entitled to a retirement pension — Unemployed frontier worker receiving benefit of a pension scheme)

(2005/C 57/24)

(Language of the case: Dutch)

In Case C-101/04: Reference for a preliminary ruling under Article 234 EC from the Arbeidsrechtbank Gent (Belgium), made by decision of 17 February 2004, received at the Court on 26 February 2004, in the proceedings between **Roger Noteboom** and **Rijksdienst voor Pensioenen** – the Court (Fourth Chamber), composed of N. Colneric (Rapporteur), acting for the President of the Fourth Chamber, J.N. Cunha Rodrigues and E. Levits, Judges; C. Stix-Hackl, Advocate General; R. Grass, Registrar, gave a judgment on 20 January 2005, in which it ruled:

1. A benefit such as the holiday pay referred to in Article 22 of Royal Decree No 50 of 24 October 1967 concerning retirement and survivor's pensions for employed persons, as amended by the Law of 30 March 1994, and in Article 56 of the Royal Decree of 21 December 1967 concerning general rules for the scheme of retirement and survivor's pensions for employed persons, as amended by the Royal Decree of 27 January 1998 and by the Royal Decree of 4 March 2002, constitutes an old-age benefit within the meaning of Article 4(1)(c) of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Council Regulation (EC) No 1606/98 of 29 June 1998.

2. Article 45(6) of Regulation No 1408/71, as amended and updated by Regulation No 118/97, as amended by Regulation No 1606/98, must be interpreted as meaning that the competent institution of the Member State of residence is to take account, for the purposes of the grant of a benefit such as that in question in the main proceedings, of a period of full unemployment during which the formerly employed person received benefits under Article 71(1)(a)(ii) of that regulation, as if the legislation administered by that institution applied to that worker during his last employment.

⁽¹⁾ OJ C 94, 17.04.2004.

JUDGMENT OF THE COURT

(Fifth Chamber)

of 20 January 2005

in Case C-198/04: Commission of the European Communities v French Republic ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directives 89/48/EEC and 92/51/EEC — Recognition of diplomas — Regulated professions — Tour guide)

(2005/C 57/25)

(Language of the case: French)

In Case C-198/04: Commission of the European Communities (Agents: M. Patakia and H. Stovlbaek) v French Republic (Agents: G. de Bergues, C. Isidoro and O. Christmann) – ACTION under Article 226 EC for failure to fulfil obligations, brought on 4 May 2004 – the Court (Fifth Chamber), composed of: R. Silva de Lapuerta, President of Chamber, J. Makarczyk and P. Küris (Rapporteur), Judges; D. Ruiz-Jarabo Colomer, Advocate General; R. Grass, Registrar, gave a judgment on 20 January 2005, in which it: