

**Re:**

Reference for a preliminary ruling — Cour de cassation — Civil chamber — Paris — Interpretation of Articles 4(2a), 10a, 19(1) and 95b of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ English Special Edition 1971 (II), p. 416), as amended — National legislation making the grant of supplementary allowance from the National Solidarity Fund subject to a residence condition — Concept of a special non-contributory benefit — Listing of the allowance in Annex IIa to Regulation (EEC) No 1408/71

**Operative part of the judgment**

*A benefit such as the supplementary allowance mentioned, under the heading 'France' in Annex IIa to Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community, in the version amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, constitutes a special benefit. Examination of the method of financing the supplementary allowance, on the basis of the information in the file submitted to the Court, shows that there is no sufficiently identifiable link between the general social contribution and the benefit concerned, which leads to the conclusion that the supplementary allowance is non-contributory. However, it is for the national court to confirm the accuracy of the factors set out in paragraphs 48 to 52 of this judgment in order to determine conclusively whether that benefit is contributory or non-contributory.*

<sup>(1)</sup> OJ C 217, 3.9.2005.

**Judgment of the Court (Seventh Chamber) of 11 January 2007 — Commission of the European Communities v Hellenic Republic**

(Case C-269/05) <sup>(1)</sup>

**(Failure of a Member State to fulfil obligations — Article 1 of Regulation (EEC) No 4055/86 — Maritime transport — Harbour dues levied on passenger vessels or cargo vessels — Harbour dues levied on vehicles aboard ferries — Discrimination)**

(2007/C 42/10)

Language of the case: Greek

**Parties**

*Applicant:* Commission of the European Communities (represented by: G. Zavvos and K. Simonsson, Agents)

*Defendant:* Hellenic Republic (represented by: E. Skandalou, Agent)

**Re:**

Failure of a Member State to fulfil obligations — Breach of Article 1 of Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries (OJ 1986 L 378, p. 1) — Harbour dues levied on passenger vessels or cargo vessels — Lower level of dues when transport is between two ports within national territory — Harbour dues levied on vehicles aboard ferries — Dues not levied on vehicles travelling between ports in national territory

**Operative part of the judgment**

The Court:

1) Declares that, by maintaining in force:

— the harbour dues levied on passenger vessels (including cruise ships) or on cargo vessels when they enter into harbour, berth and anchor in the ports of Piraeus and Thessaloniki, applying a lower level of dues when transport is between two ports within Greece as compared with cases where transport is to a destination outside Greece,

— harbour dues for the benefit of the harbour funds of the Port Authorities AE, set up by Law No 2932/2001, and of the ports of Piraeus and Thessaloniki, which are levied on vehicles aboard ferries on international routes, while similar dues are not levied on routes between Greek ports,

— the right to levy dues on vehicles aboard vehicle ferries with a foreign port destination for the benefit of municipalities and communities,

the Hellenic Republic has failed to fulfil its obligations under Article 1 of Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries;

2. Orders the Hellenic Republic to pay the costs.

<sup>(1)</sup> OJ C 229, 17.9.2005.