

By his second submission, the applicant maintains that, contrary to the findings of the judgment under appeal, the new pension scheme effectively provides for a link to the cost of living in Brussels, so that the income of pensioners living in Belgium is set by taking into account solely the cost of living in the capital of that Member State, whilst the income of pensioners living in the capitals of other Member States is actually determined by a weighting which takes into account the average cost of living in the entire country. The applicant challenges, moreover, the finding of the Court of First Instance that the lawfulness of a Community legislative act cannot depend on the way in which it is applied in practice, since the measures implementing such an act are closely linked to the act itself, and relies on a breach of the rights of the defence and of the principle of the equality of the parties before the Community judicature, inasmuch as he knew of the measures implementing the new pension scheme only after the close of the written procedure.

By his final submission, the applicant challenges the Court of First Instance's finding that he had no legal interest in bringing proceedings pursuant to Article 241 EC by referring to the advantage conferred on pensioners living in a 'less expensive' Member State. In complaining of the different treatment reserved for pensioners living in a 'less expensive' Member State as compared with pensioners living in an 'expensive' Member State, he is attacking the breach of the principle of equality of purchasing power and aiming, thereby, to call into question the pension scheme resulting from the new Staff Regulations and its transitional measures.

Reference for a preliminary ruling from the Consiglio di Giustizia Amministrativa per la Regione siciliana (Italy) lodged on 13 February 2007 — Ispettorato Provinciale dell'Agricoltura di Enna, Assessorato all'agricoltura e foreste della regione Sicilia, Regione Sicilia v Domenico Valvo

(Case C-78/07)

(2007/C 117/03)

Language of the case: Italian

Referring court

Consiglio di Giustizia Amministrativa per la Regione siciliana (Italy)

Parties to the main proceedings

Appellants: Ispettorato Provinciale dell'Agricoltura di Enna, Assessorato all'agricoltura e foreste della regione Sicilia, Regione Sicilia

Respondent: Domenico Valvo

Question referred

May a farmer be refused the compensatory allowance provided for by Regulation (EEC) No 2328/91 (as amended by Regulation No 3669/93) and by Regulation (EC) No 950/97⁽¹⁾ on improving the efficiency of agricultural structures when he also receives a pension, in particular, a years-of-service pension?

⁽¹⁾ OJ 1997 L 142, p. 1.

Reference for a preliminary ruling from the Arbeitsgericht Bonn (Germany) lodged on 20 February 2007 — Dr Andrea Raccanelli v Max-Planck-Gesellschaft zur Förderung der Wissenschaften e.V.

(Case C-94/07)

(2007/C 117/04)

Language of the case: German

Referring court

Arbeitsgericht Bonn

Parties to the main proceedings

Applicant: Dr Andrea Raccanelli

Defendant: Max-Planck-Gesellschaft zur Förderung der Wissenschaften e.V.

Questions referred

1. Should the applicant be regarded as a worker within the meaning of the European concept of 'worker' if he is not called upon to provide any more work-related services than are doctoral students with an employment contract concluded pursuant to the Bundesangestelltentarifvertrag (federal collective agreement for public sector workers, 'BAT/2')?
2. In the event that the answer to Question 1 is in the negative: must Article 7 of Regulation (EEC) No 1612/68 on freedom of movement for workers within the Community⁽¹⁾ be interpreted as meaning that there is no discrimination only if the applicant was at least granted the right to choose between an employment contract and a grant before his period of doctoral study with the defendant began?