

COURT OF JUSTICE

Action brought on 6 May 1981 by Teresita Pace (née Porta) against Commission of the European Communities

(Case 109/81)

An action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 6 May 1981 by Mrs Teresita Pace (née Porta), residing at Ispra, Varese, assisted and represented by Angelo Volpi and Giuseppe Celona of the Milan Bar, both having a right of audience at the Corte di Cassazione of the Italian Republic, with an address for service in Luxembourg at the Chambers of Georges Margue, 20 Rue Philippe II.

The applicant claims that the Court should:

- Order the Commission to accord to the applicant economic and legal treatment equivalent to that laid down in the collective labour agreement in force in Italy in the private teaching sector;
- Order the Commission to grant to the applicant in the measure terminating her employment the retirement pension provided for employees of the Community;
- Order the Commission to pay the entire costs of the proceedings.

The principal submissions and arguments relied upon:

From the school year 1964 to date the applicant has taught (between 15 and 17 hours of teaching per week) general studies and Italian at the Scuola Tecnica e Professionale del Centro di Ricerche [Technical and Vocational Training School at the Research Centre], Ispra, initially without any contract and from 1969 under a series of contracts, the latest of which contains the two following clauses:

- 'This "service" contract shall be governed by Italian law.
- The contracting parties declare, under Article 42 of the ECSC Treaty, Article 181 of the EEC Treaty and Article 153 of the EAEC Treaty, that the Court of Justice of the European Communities shall have sole jurisdiction to settle all disputes concerning the validity, interpretation or implementation of this contract'.

There is no doubt in Italian law that teaching in a private school of any kind creates *an employee relationship of unlimited duration*.

It follows from the nature of the employee relationship of unlimited duration which arises from the teaching service that the teacher is entitled to all the conditions enjoyed by private teachers whilst the treatment laid down for the applicant provides only for remuneration on an hourly basis with no payment being given in cases of absence even though caused by illness or other legitimate ground.