

2. Must the exception in Article 6(2) of Council Directive 2000/78/EC concerning the determination of age limits for admission to occupational social security schemes be interpreted as not precluding a Member State from maintaining a legal situation in which an employer can pay, as part of pay, age-graded pension contributions, implying for example that the employer pays a pension contribution of 6 % for employees under 35, 8 % for employees from 35 to 44 and 10 % for employees over 45, in so far as that does not bring about discrimination on grounds of sex?

(¹) Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16).

Appeal brought on 27 September 2011 by the Hellenic Republic against the judgment of the General Court (Sixth Chamber) delivered on 13 July 2011 in Case T-81/09 Hellenic Republic v Commission

(Case C-497/11 P)

(2011/C 340/21)

Language of the case: Greek

Parties

Appellant: Hellenic Republic (represented by: P. Mylonopoulos, K. Boskovits, and G. Michailopoulos)

Other party to the proceedings: European Commission

Form of order sought

— Set aside the judgment of 13 July 2011 of the General Court of the European Union in Case T-81/09 in so far as it dismissed the action brought by the Hellenic Republic;

— uphold the action brought by the Hellenic Republic in Case T-81/09;

— order the Commission to pay the costs.

Pleas in law and main arguments

1. **First plea:** misinterpretation and misapplication of Article 23(2) of Regulation 4253/88 and Article 12 of Regulation 2064/97, and also Articles 54 and 57 of Regulation 1605/02, in relation to the scope of the audit powers which were conferred by the Commission on private companies.

2. **Second plea:** misinterpretation of the general principle of proportionality and failure to state adequate reasons in relation to the 'Northern Crete Trunk Road' project, in so far as the Commission applied a correction of 25 % to that project merely by reference to the prior audit by the Greek authorities in relation to part of that project.

3. **Third plea:** misinterpretation and misapplication of Article 2 of Regulation 2064/97 in relation to the 'Kakia Scala' project, in so far as the General Court ruled on the sufficiency of the audit trail for the project with reference to qualitative factors.

4. **Fourth plea:** misinterpretation and misapplication of the principle of equal treatment of candidates and Article 22(1) of Directive 93/37 in relation to the projects 'K. Varibobis-Bogiati & Afidnes-K. Markopoulou — Section 1', 'Aerino — M. Monastiri', 'M. Monastiri — Beginning of the Larissa bypass' and 'Larisa bypass' in so far as the established terms and conditions for the holding of the restricted tendering procedure were known to all interested parties and served the project economy.

5. **Fifth plea:** failure to examine a substantive plea of the Hellenic Republic in relation to the terms of the tendering procedure for the projects 'Aerino — M. Monastiri', 'M. Monastiri — Beginning of the Larissa bypass' and 'Larisa bypass', in breach of the rights of the defence and the right to be heard.

Appeal brought on 3 October 2011 by ENI SpA against the judgment of the General Court (First Chamber) delivered on 13 July 2011 in Case T-39/07 ENI v Commission

(Case C-508/11 P)

(2011/C 340/22)

Language of the case: Italian

Parties

Appellant: ENI SpA (represented by: G.M. Roberti, D. Durante, R. Arras, E. D'Amico, I. Perego, avvocati)

Other party to the proceedings: European Commission

Form of order sought

— set aside in whole or in part the judgment under appeal in so far as it dismissed the action brought by ENI in Case T-39/07 and, consequently:

— set aside in whole or in part the Commission Decision of 29 November 2006 (Case COMP/F/38.638 — BR/ESBR); and/or

— annul, or at least reduce, the fine imposed on ENI by the Commission Decision of 29 November 2006 (Case COMP/F/38.638 — BR/ESBR);

— in the alternative, set aside in whole or in part the judgment under appeal in so far as it dismissed the action brought by ENI in Case T-39/07 and refer the case back to the General Court for an adjudication on the merits in the light of the guidance with which the Court will provide it;

— order the Commission to pay the costs, both of the present proceedings and of the proceedings in Case T-39/07.