

SUMMARY

ECJ 2 June 2016, case C-122/15 (C), Age discrimination

<p>A supplementary tax on retirement income falls outside the scope of Directive 2000/78.</p>

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A supplementary tax on retirement income falls outside the scope of Directive 2000/78.

Facts

In 2013, C, a Finnish national, received a retirement pension totalling about € 462,000. This income was taxed according to Finnish law, which provides that retirement income over € 45,000 per year attracts a supplementary tax of 6%. C complained about this.

National proceedings

C's complaint was rejected in two instances. He appealed to the Supreme Administrative Court. It referred a question to the ECJ, noting that the tax provisions at issue do not concern employment and working conditions within the meaning of Directive 2000/78. In particular, those provisions do not lay down any criterion for determining pay. The objective of the relevant legislation is to collect tax revenue from recipients of retirement pensions who are capable of paying, to narrow the difference of tax rates between pension income and employment income, and to improve incentives for older persons to continue working.

ECJ's findings

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The scope of Directive 2000/78 must be understood, in the light of Article 3(1)(c) and (3), read in conjunction with recital 13 thereof, as excluding social security or social protection schemes, the benefits of which are not equivalent to 'pay' within the meaning given to that term for the application of Article 157(2) TFEU (§ 20).

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It is true that the concept of 'pay' within the meaning of Article 3(1)(c) of Directive 2000/78 must be interpreted broadly. Thus, the Court has ruled that benefits granted under a pension scheme which essentially relates to the employment of the person concerned, form part of the pay received by that person and come within the scope of Article 157(2) TFEU. However, it does not follow that national legislation relating to the rate of tax on retirement pension income must be regarded as falling within the scope of Directive 2000/78 (§ 21-24).

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The dispute in the main proceedings does not concern the procedure or conditions for determining the amount of the benefits paid to the worker by reason of the employment relationship between him and his former employer, but on the rate of tax on retirement pension income. Such taxation is external to the employment relationship and, therefore, to the determination, in that context, with which Directive 2000/78 is solely concerned, of 'pay' within the meaning of that directive and Article 157(2) TFEU. A supplementary tax on retirement pension income, such as that at issue in the main proceedings, without any link to the contract of employment, derives directly and exclusively from national tax legislation applicable to all natural persons whose income from retirement pensions exceeds € 45,000. Therefore, national legislation, such as that at issue in the main proceedings, relating to supplementary tax on pension income does not fall within the scope of Directive 2000/78 (§ 25-27).

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According to Article 51(1) of the Charter, its provisions are addressed to the Member States only when they are implementing EU law. It is common ground that the Finnish tax provision tax law at issue does not implement any provision of EU law and no directive on taxation is applicable in the situation at issue in the main proceedings. Further, the dispute in the main proceedings does not fall within the scope of Directive 2000/78. Therefore, the provisions of the Charter, the interpretation of which is sought by the present request for a preliminary ruling, cannot be successfully relied on in the context of that dispute (§ 28-29).

Judgment

Article 3(1)(c) of Council Directive 2000/78 [...] must be interpreted as meaning that national legislation, such as that at issue in the main proceedings, relating to a supplementary tax on pension income, does not fall within the substantive scope of that directive nor, therefore, is it covered by Article 21(1) of the Charter of Fundamental Rights of the European Union.

Creator: European Court of Justice (ECJ)

Verdict at: 2016-06-02

Case number: C-122/15 (C)