

SUMMARY

ECJ 21 January 2016, case C-515/14 (Cyprus), freedom of movement

<p>Cypriot law on civil servants' pensions violates EU law.</p>

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Cypriot law on civil servants' pensions violates EU law.

Facts

Cypriot law provides (briefly stated) that a civil servant, hired prior to 1 October 2011, who resigns and leaves Cyprus before the age of 45 loses the right to have his pension consolidated and paid at the age of 55, whereas a civil servant who continues to be employed as a civil servant in Cyprus retains that right. In 2012, the Commission notified Cyprus that the relevant statutory provision was incompatible with Articles 45 and 48 TFEU on free movement. Cyprus disagreed and, following an exchange of arguments, the Commission brought an action against Cyprus.

ECJ's findings

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Articles 45 to 48 TFEU are intended in particular to prevent a worker who, by exercising his right of freedom of movement, has been employed in more than one Member State, from being treated without objective justification, less favourably than one who has completed his entire career in only one Member State (§42).

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In the present case it is apparent that a civil servant under the age of 45 who resigns from employment in the Cypriot civil service to carry on a professional activity in another Member State (or within an EU institution or other international organisation) loses the right to have his pension consolidated and paid at the age of 55, whereas a civil servant who continues in employment in that job or who leaves to take up another civil service position in Cyprus retains that right (§43).

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It follows that the Cypriot legislation at issue in the present case is likely to hinder, or to make less attractive, the exercise of the right to freedom of movement by the Cypriot civil servants concerned. The legislation may deter those civil servants from leaving their employment within the civil service of their Member State of origin to carry out a professional activity in another Member State, within an EU institution or other international organisation and, therefore, constitutes an obstacle to the freedom of movement for workers which is, in principle, prohibited by Article 45 TFEU (§44).

Order

The ECJ declares that by failing to repeal, with retroactive effect from 1 May 2004, the age-related criterion in Article 27 of Law 97(I)/1997 on Pensions, which deters workers from leaving their Member State of origin in order to work in another Member State, or within an EU institution, or other international organisation and which has the effect of creating unequal treatment between migrant workers including those who work within the EU institutions or within another international organisation, on the one hand, and civil servants who have worked in Cyprus, on the other, the Republic of Cyprus has failed to fulfil its obligations under Articles 45 TFEU and 48 TFEU and under Article 4(3) TEU.

Creator: European Court of Justice (ECJ)

Verdict at: 2016-01-21

Case number: C-515/14 (Cyprus)