

SUMMARY

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

<p>National tax law (which the claimant in this case considered to be age discriminatory) does not fall within the scope of Directive 2000/78.</p>

Summary

National tax law (which the claimant in this case considered to be age discriminatory) does not fall within the scope of Directive 2000/78.

Facts

C is a Finnish citizen living in Finland. He received retirement income. That income was taxed in a certain manner that he considered to be age discriminatory. He complained against a tax assessment for the year 2013. His complaint was rejected, as was his appeal to the Administrative Court.

National proceedings

C appealed to the Supreme Court, which referred questions to the ECJ. The first question was whether certain provisions of Finnish Law 1992/1535, relating to supplementary tax on retirement pension income, fall within the scope of EU law, in particular Directive 2000/78 and Article 21 of the Charter. Article 3(1) of Directive 2000/78 provides that the directive applies to all persons in relation to “employment and working conditions, including dismissals and pay”. However, Article 3(3) states that the directive does not apply to “payments of any kind made by State schemes or similar, including State social security or social protection schemes”. Article 21 of the Charter contains a generally worded prohibition against discrimination.

ECJ’s findings

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The scope of Directive 2000/78 excludes social security or social protection schemes, the benefits of which are not equivalent to 'pay'. 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 (§20-23).

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However, the dispute in the main proceedings does not concern the procedure or the 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 the rate of tax on retirement pension income. Such taxation is external to the employment relationship and, therefore, external to the determination about which Directive 2000/78 is 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 a certain amount. 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 (§24-25).

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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 Law 1992/1535 does not implement any provision of European Union 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 [...] establishing a general framework for equal treatment in employment and occupation 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)