



Press and Information

Court of Justice of the European Union

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Judgment in Case C-401/11

Blanka Soupuková v Ministerstvo zemědělství

## **Member States must observe the principle of equal treatment between women and men when they grant early retirement support to elderly farmers**

*Therefore, they may not determine differently, depending on the gender or number of children of the applicant, the age from which that support may no longer be claimed*

In order to improve the viability of agricultural holdings, the EU encourages early retirement of farmers who 55 years old or over but not yet of normal retirement age. Therefore, farmers who have decided to prematurely stop all commercial farming activity may receive support from the European Agricultural Guidance and Guarantee Fund (EAGGF). They may receive that support for a maximum period of 15 years and until their 75th birthday. Where the recipient of the support is also paid a normal retirement pension, the amount of the latter will be deducted from the support.

According to Czech law, normal retirement age for men is higher than it is for women. Furthermore, for women, that age is reached progressively early depending on the number of children they have raised.

Mrs Soupuková is a farmer and mother of two children. On 24 May 2004, she reached retirement age as determined in her case by Czech law. On 3 October 2008, she applied to the Czech authorities for payment of early retirement support, the amount of which was higher than her Czech old-age pension.

Her application was, however, refused on the ground that she had already reached normal retirement age. Since she considers herself a victim of discrimination on the grounds of sex based on the fact that retirement age for women and, in particular, for women who have raised children, is lower than it is for men, Mrs Soupuková brought an appeal before the Czech courts. The Nejvyšší správní soud (Supreme Administrative Court, Czech Republic), hearing the appeal, asks the Court of Justice whether EU law allows, for the grant of early retirement support, normal retirement age to be determined differently for applicants, depending on their gender and the number of children raised.

In its judgment delivered today, the Court points out that **early retirement support in the agricultural sector is an instrument of the Common Agricultural Policy**, financed by the EAGGF, which is designed to ensure the viability of agricultural holdings, and **not a social security benefit**. Admittedly, while the determination of normal retirement age in the context of the grant of early retirement support, in the absence of harmonisation at EU level, falls within the competence of the Member States, **they may not, however, rely on the difference in treatment that they are authorised to retain when defining retirement age in the field of social security. On the contrary, in the context of early retirement support for elderly farmers, Member States are required to ensure equal treatment between women and men and, therefore, to prohibit any discrimination on grounds of gender.**

Elderly female farmers and elderly male farmers are in comparable situations, in the light of the purpose of early retirement support. However, EU law precludes that comparable situations be treated differently and, therefore, in particular, that men, without objective justification, have a longer period in which to submit their application for support than women. In that context, the Court notes that, in the present case, the difference in treatment cannot be objectively justified, since the

objectives of structural change in the agricultural sector envisaged by support for early retirement from farming can clearly be attained without the Member States resorting to discriminatory treatment.

Finally, the Court recalls that, where discrimination contrary to EU law is established - and as long as measures reinstating equal treatment have not been adopted – persons within the disadvantaged category must be granted the same advantages as those within the favoured category.

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**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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