

# Case T-110/89

**Giorgio Pincherle**

v

**Commission of the European Communities**

(Official — Social insurance cover — Article 72 of the Staff Regulations — Implementing provisions — Reimbursement of medical expenses — Equal treatment)

Judgment of the Court of First Instance, 12 July 1991 ..... II - 636

## Summary of the Judgment

1. *Officials — Social security — Sickness insurance — Sickness expenses — Reimbursement ceilings — Whether permissible — Conditions (Staff Regulations of Officials, Art. 72)*
2. *Officials — Action — Action seeking, in the absence of an act adversely affecting the applicant, judicial review of a provision of general application — Inadmissibility (Staff Regulations of Officials, Art. 91)*
3. *Officials — Social security — Sickness insurance — Sickness expenses — Reimbursement — Obligations of the institutions — Observance of the principle of equal treatment (Staff Regulations of Officials, Art. 72)*

1. Article 72 of the Staff Regulations does not confer on persons covered by the Joint Sickness Insurance Scheme the right to obtain reimbursement of 80% or 85% of the expenses incurred, according to the type of services provided. Those

rates fix the maximum reimbursable limit. They are not minimum rates and do not impose on the institutions an obligation to reimburse the persons concerned to the extent of those rates in all cases.

The fixing in the implementing provisions of upper limits for reimbursement in order to safeguard the financial equilibrium of the sickness insurance scheme does not constitute an infringement of Article 72 of the Staff Regulations provided that, in establishing those limits, the Community institutions observe the principle of social insurance cover underlying that article.

2. In proceedings brought under Article 91 of the Staff Regulations the Court has jurisdiction only to review the lawfulness of an act adversely affecting the applicant and is not entitled, in the absence of an individual implementing measure, to rule in the abstract on the lawfulness of a provision of a general nature.

3. The principle of equal treatment imposes on the Community institutions an obligation to take steps to provide a remedy for a situation of inequality affecting persons covered by a sickness insurance scheme who, in certain Member States, bear the cost of more expensive medical services.

However, the institutions cannot be required to increase immediately the reimbursements allowed to the officials concerned, all the more so since the financial equilibrium of the scheme must be safeguarded. On the other hand, it is for the institutions to act in concert, with all the diligence necessary, in order to achieve an appropriate revision of the rules relating to sickness insurance cover which ensures that the principle of equal treatment is observed.

## JUDGMENT OF THE COURT OF FIRST INSTANCE (Fourth Chamber)

12 July 1991 \*

In Case T-110/89,

**Giorgio Pincherle**, an official of the European Communities, residing at Brussels, represented by Giuseppe Marchesini, Advocate with the right of audience before the Italian Corte di Cassazione, with an address for service in Luxembourg at the Chambers of Ernest Arendt, 4 Avenue Marie-Thérèse,

applicant,

supported by

\* Language of the case: Italian.