

Case 368/87

Lieselotte Hartmann Troiani

v

Landesversicherungsanstalt Rheinprovinz

(reference for a preliminary ruling  
from the Bundessozialgericht)

(Retroactive payment of voluntary pension-insurance contributions)

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Summary of the Judgment

1. *Social security for migrant workers — Voluntary or optional continued insurance — Option of retroactively paying pension rights subject to affiliation to the national scheme of compulsory insurance — Condition not satisfied by affiliation to the compulsory insurance scheme of another Member State*  
(Regulation No 1408/71 of the Council, Art. 9)
2. *Social security for migrant workers — Voluntary or optional continued insurance — National legislation making the right to purchase pension rights subject to affiliation to the national scheme of compulsory insurance — Condition required of nationals — Permissible*  
(EEC Treaty, Arts 48 and 51)

1. Article 9 of Regulation No 1408/71 must be construed as meaning that the requirement of affiliation to a compulsory insurance scheme in a

Member State, which, according to the legislation of that State, must be fulfilled at the time of the submission of an application to make retroactive payment

of voluntary pension-insurance contributions, cannot be considered to be satisfied if the person making the application is at that date affiliated to a compulsory insurance scheme in another Member State.

2. Articles 48 and 51 of the Treaty do not preclude the application to nationals of a Member State of a provision of national legislation laying down, for the exercise

of the right to purchase pension rights, a requirement of affiliation to the national compulsory insurance scheme. It is for the legislation of each Member State to lay down the conditions concerning the right or the obligation to become affiliated to a social security scheme or to a particular branch under such a scheme, provided always that in this connection there is no discrimination between nationals of the host State and the nationals of other Member States.

## REPORT FOR THE HEARING delivered in Case 368/87 \*

### I — Facts and procedure

Mrs Hartmann Troiani, the plaintiff in the main proceedings, was employed in Germany until 1963, when she married. Thereafter she continued working, first in Germany for 11 months and then in Italy until 1981.

Paragraph 1304 of the Reichsversicherungsordnung (German Insurance Code), in force in 1963, enabled women to obtain upon their marriage a refund of the pension-insurance contributions which they had paid.

Paragraph 1304(1) was worded as follows:

'If an insured woman marries, she may apply for reimbursement of half the contributions paid after 20 June 1948 on Federal German territory or, after 24 June 1948 in the *Land* of Berlin, until the end of the month during which the application is submitted. Supplementary insurance contributions shall be reimbursed to the insured in full.'

Mrs Hartmann Troiani exercised that option.

Subsequently, on 28 July 1969, a law amending the pension-insurance scheme for

\* Language of the case: German.