



Press and Information

Court of Justice of the European Union

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Judgment in Case C-515/14
Commission v Cyprus

Cypriot legislation on pension entitlement which places migrant workers at a disadvantage in relation to those who do not leave Cyprus is contrary to EU law

That legislation deters workers from leaving Cyprus to work in another Member State

EU law secures the freedom of movement for workers within the EU.¹ Migrant workers benefit from the aggregation of all insurance periods in such a way as to guarantee their work record for the purposes of social security.²

The Commission considers that Cypriot legislation places migrant workers at a disadvantage compared with those who carry on their professional activity only in Cyprus. According to that legislation, a civil servant under the age of 45 who resigns from his employment in the Cypriot civil service to carry on a professional activity in a Member State other than Cyprus, or within an EU institution, or other international organisation, receives only a lump sum and loses his future pension rights. That, however, is not the case for civil servants who continue to carry on a professional activity in Cyprus, who leave their employment in the civil service to carry out certain public duties in Cyprus or even who are recruited by a body governed by Cypriot public law.

Cyprus submits that variations in the conditions under which social security benefits are granted could put the balance of the Cypriot system at risk which aims to ensure the stability of the occupational scheme for civil servants whilst respecting the principle of proportionality.

In today's judgment, **the Court allows the Commission's action for failure to fulfil obligations.**

First, the Court holds, by reference to the Treaty, that migrant workers must not lose their rights to social security benefits nor have the amount of those benefits reduced because they have exercised the right of freedom of movement conferred on them by the Treaty.

Secondly, the Court notes that the Cypriot legislation is likely to restrict or make less attractive the exercise of the right to freedom of movement by Cypriot civil servants and, therefore, constitutes an obstacle to the freedom of movement for workers. That legislation may prevent or deter officials from leaving their Member State of origin to accept employment in another Member State, or within an EU institution, or other international organization. It directly affects the access of Cypriot civil servants to the employment market in Member States other than Cyprus and is thus capable of impeding the freedom of movement for workers.

The Court recalls that national legislation may constitute a justified restriction on a fundamental freedom if it is dictated by reasons of an economic nature in the pursuit of an objective in the public interest. When the competent national authorities adopt a measure derogating from a principle enshrined in EU law they must prove, in each case, that that measure is appropriate for securing the attainment of the object relied upon and that it does not go beyond what is necessary to attain it. The Court finds that such evidence is lacking in the present case.

In those circumstances the Court holds that by not having repealed, with retroactive effect from its accession to the EU (1 May 2004), the age-related criterion which deters workers from leaving

¹ Article 45(1) TFEU

² Article 48 TFEU

Cyprus to work in another Member State, or within an EU institution, or other international organisation, the Cypriot State has maintained unequal treatment between migrant workers and civil servants who have worked in Cyprus and has consequently infringed EU law.

NOTE: An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under European Union law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

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

Press contact: Christopher Fretwell ☎ (+352) 4303 3355