

Joined Cases C-159/91 and C-160/91

Christian Poucet

v

Assurances Générales de France (AGF) and Caisse Mutuelle Régionale
du Languedoc-Roussillon (Camulrac)

and

Daniel Pistre

v

Caisse Autonome Nationale de Compensation de l'Assurance Vieillesse
des Artisans (Cancava)

(Reference for a preliminary ruling
from the Tribunal des Affaires de Sécurité Sociale de l'Hérault)

(Interpretation of Articles 85 and 86 of the EEC Treaty —
Concept of undertaking — Organization charged with the
management of a special social security scheme — National
legislation attributing a dominant position to such an organization)

Report for the Hearing	I - 638
Opinion of Advocate General Tesauo delivered on 29 September 1992	I - 658
Judgment of the Court, 17 February 1993	I - 664

Summary of the Judgment

*Competition — Community rules — Undertaking — Meaning — Organizations charged with
the management of a special social security scheme — Not included
(EEC Treaty, Arts 85 and 86)*

The concept of an undertaking, within the meaning of Articles 85 and 86 of the Treaty, encompasses all entities engaged in an economic activity. It does not include, therefore, organizations involved in the management of

the public social security system, which fulfil an exclusively social function and perform an activity based on the principle of national solidarity which is entirely non-profit-making.

REPORT FOR THE HEARING in Joined Cases C-159/91 and C-160/91 *

I — Facts and procedure

1. *The main proceedings*

In Case C-159/91 Christian Poucet objected to a demand served on him on 17 October 1990 for payment of contributions due from him for the period from 1 October 1989 to 31 March 1990 to the Caisse Mutuelle Régionale du Languedoc-Roussillon (Languedoc-Roussillon Regional Mutual Benefit Fund, hereinafter referred to as 'Camulrac') through Assurances Générales de France (hereinafter referred to as 'AGF'), the body which, acting on Camulrac's behalf, manages the sickness and maternity insurance scheme for self-employed persons not engaged in agriculture.

In Case C-160/91 Daniel Pistre also objected to a demand served on him on 7 August 1990 for payment of contributions due from him for the first quarter of 1990, together with interest for late payment, to the Caisse Autonome Nationale de Compensation de l'Assurance Vieillesse des Artisans (National Independent Old-Age Insurance Fund for Craftsmen, hereinafter referred to as 'Cancava'), which manages the old-age pension scheme for self-employed persons in craft occupations.

Messrs Poucet and Pistre alleged before the Tribunal des Affaires de Sécurité Sociale de l'Hérault (Social Security Court, Hérault) that as a result of their dominant position, which was contrary to the principles of free competition laid down in Order No 86-1243 of 1 December 1986 and the EEC Treaty, Camulrac, AGF and Cancava were not entitled to demand payment of the contributions in question.

In Case C-159/91 AGF pleaded that the application was inadmissible on the ground that no case was made out and Camulrac asked that the demand be held valid. In Case C-160/91 Cancava claimed that in France social security legislation is a matter of public policy and that it was not for the court to assess the reasoning relied on but only to examine whether the legislation in question was applied properly, and asked that the demand in question be held valid.

* Language of the case: French.