

Case C-419/92

Ingetraut Scholz

v

Opera Universitaria di Cagliari and Cinzia Porcedda

(Reference for a preliminary ruling  
from the Tribunale Amministrativo Regionale per la Sardegna)

(Freedom of movement for workers —  
Competition for a post in the public service —  
Practical experience acquired in another Member State)

Opinion of Mr Advocate General Jacobs delivered on 15 December 1993 ..... I - 507  
Judgment of the Court, 23 February 1994 ..... I - 517

Summary of the Judgment

*Freedom of movement for persons — Workers — Equal treatment — Access to employment — Account taken by a public body of a Member State when recruiting staff of previous employment in a public service — Distinction, with regard to Community nationals, between employment in the national public service and employment in the public service of another Member State — Covert discrimination — Not permissible*  
(EEC Treaty, Art. 48)

Article 48 of the EEC Treaty prohibits not only overt discrimination by reason of nationality but also all covert forms of discrimination which, by the application of other distinguishing criteria, lead in fact to the same result. It must accordingly be interpreted as meaning that, where a public body of a Member State, in recruiting staff for posts which do not fall within the scope

of Article 48 (4) of the Treaty, provides for account to be taken of candidates' previous employment in the public service, that body may not, in relation to Community nationals, make a distinction according to whether such employment was in the public service of that particular State or in the public service of another Member State.