

EUROPEAN UNION - NATIONAL COURTS - REFERENCE FOR PRELIMINARY RULING - Charter of Fundamental Rights of the European Union - Cases in which the applicable domestic law was enacted before the entry into force of the Lisbon Treaty - Duty of national courts to refer for a preliminary ruling - Exclusion - Legal basis.

Court of Cassation, Labour Chamber, judgment no. 2286 given on 30/01/2018

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Case: P. (ZAMPIERI Nicola) v. I. (PREDEN Sergio)

Decision: Dismissal of Judgment given by CORTE D'APPELLO VENEZIA [Court of Appeal of Venice) on 17/05/2013

- This case concerned: whether Article 1 (777) of Law no. 296 of 2006, on the determination of pensionable remuneration relevant to work in a foreign country, was in contrast with Article 47 of the EU Charter of Fundamental Rights.
- The Supreme Court of Cassation ruled that: The EU Charter of Fundamental Rights cannot be applied to cases falling prior to its entry into force. This is because the Charter gained the legal status of an EU Treaty only after the date of entry into force of the Lisbon Treaty, i.e. 1 Jan. 2009. Therefore, any legal provision in force prior to 1 Jan 2009 cannot be referred to the Court of Justice of the European Union for a preliminary ruling on its compliance with the Charter. Indeed, under Article 267 of the TFEU a domestic court shall refer to the CJEU for preliminary ruling questions concerning the interpretation of the EU law applicable to a given case.