Reports of Cases

JUDGMENT OF THE COURT (Sixth Chamber)

18 December 2025 *

(Reference for a preliminary ruling – Officials – Staff Regulations of Officials of the European Union – Annex VIII – Pensions – Pension rights acquired before entry into the service of the European Union – Transfer to the pension scheme of the European Union institutions – Transfer request of the worker – Irrevocability of that transfer – Unjust enrichment)

In Case C-776/24 [Bopuis], [i]

REQUEST for a preliminary ruling under Article 267 TFEU from the tribunal du travail francophone de Brussels (Brussels Labour Court (French-speaking), Belgium), made by decision of 5 November 2024, received at the Court on 12 November 2024, in the proceedings

CJ

v

Service fédéral des Pensions (SFP),

THE COURT (Sixth Chamber),

composed of F. Biltgen (Rapporteur), President of the First Chamber, acting as President of the Sixth Chamber, A. Kumin and S. Gervasoni, Judges,

Advocate General: L. Medina,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– CJ, by J.-F. Neven, avocat,

– the Belgian Government, by C. Jacob, C. Pochet and M. Van Regemorter, acting as Agents,

– the European Commission, by A. Baeckelmans and J.-F. Brakeland, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

* Language of the case: French.

[i] The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 11(2) of Annex VIII to the Staff Regulations of Officials of the European Union, as amended by Council Regulation (EEC, Euratom, ECSC) No 571/92 of 2 March 1992 (OJ 1992 L 62, p. 1) ('the Staff Regulations'), read in the light of the principle of sincere cooperation enshrined in Article 4(3) TEU.

2 The request has been made in proceedings between CJ and the Service fédéral des Pensions (SFP) (Federal Pensions Service, Belgium) concerning CJ's request to transfer his pension rights acquired prior to his entry into the service of the European Union to the pension scheme of the European Union institutions ('the PSEUI').

Legal context

The Staff Regulations

3 Article 77 of the Staff Regulations provides that:

'An official who has completed at least ten [years'] service shall be entitled to a retirement pension. …

The maximum retirement pension shall be 70% of the final basic salary carried by the last grade in which the official was classified for at least one year. 1.80% of that final basic salary shall be payable to an official for each year of service reckoned in accordance with Article 3 of Annex VIII.'

4 Article 2 of Annex VIII to the Staff Regulations reads:

'A retirement pension shall be payable on the basis of the total number of years of pensionable service acquired by the official. Each year of service reckoned as provided in Article 3 shall entitle him to one year of pensionable service and each complete month to one-twelfth of a year of pensionable service.

The maximum number of years of pensionable service which may be taken into account for the calculation of retirement pension rights shall be the number necessary to achieve the maximum pension, within the meaning of the second paragraph of Article 77 of the Staff Regulations.'

5 Article 11 of Annex VIII to the Staff Regulations reads:

'1. An official who leaves the service of the Communities to:

– enter the service of a government administration or a national or international organisation which has concluded an agreement with the Communities;

– pursue an activity in an employed or self-employed capacity, by virtue of which he acquires pension rights under a scheme whose administrative bodies have concluded an agreement with the Communities,

shall be entitled to have the actuarial equivalent of his retirement pension rights in the Communities transferred to the pension fund of that administration or organisation or to the

pension fund under which he acquires retirement pension rights by virtue of the activity pursued in an employed or self-employed capacity.

2. An official who enters the service of the Communities after:

– leaving the service of a government administration or of a national or international organisation; or

– pursuing an activity in an employed or self-employed capacity;

shall be entitled upon establishment to have paid to the Communities either the actuarial equivalent or the flat-rate redemption value of retirement pension rights acquired by virtue of such service or activities.

In such case the institution in which the official serves shall, taking into account his grade on establishment, determine the number of years of pensionable service with which he shall be credited under its own pension scheme in respect of the former period of service, on the basis of the amount of the actuarial equivalent or sums repaid as aforesaid.'

Belgian law

6 The loi du 21 mai 1991 établissant certaines relations entre des régimes belges de pension et ceux d'institutions de droit international public (Law of 21 May 1991 establishing a certain relationship between the Belgian pension schemes and those of international public law institutions (*Moniteur belge* of 20 June 1991); 'the Law of 21 May 1991') established a special transfer system, known as 'subrogation', derived from the formula for transferring the actuarial equivalent provided for in Article 11(2) of Annex VIII to the Staff Regulations.

7 Under Article 3 of the Law of 21 May 1991:

'Any official may, with the agreement of the competent institution, request that the amount of retirement pension relating to service and periods prior to the date on which he or she joined the institution in question should be paid to that institution.'

8 The first paragraph of Article 6 of that law provides:

'Once they have been adopted by the administration, the annual amount of the retirement pension to be transferred and the various elements taken into account in determining it shall be notified to the person concerned by registered letter.'

9 Article 7 of that law provides that:

'As soon as the amount of the retirement pension has become final:

1. it may no longer be modified for any reason …'

The dispute in the main proceedings and the question referred for a preliminary ruling

10 Between 1972 and 1993, CJ worked mainly as an employee in Belgium. During that period, he contributed to the SFP.

11 CJ entered the service of the European Union on 1 April 1994 and was then established as an official with effect from 1 January 1995.

12 On 29 May 1995, CJ requested the transfer to the PSEUI of his pension rights acquired as a Belgian employed person.

13 By decision of 15 July 1996, the SFP notified CJ, by registered letter, of the amount of the transferable pension rights.

14 On 4 November 1996, the SFP informed the European Commission of that amount.

15 On 14 September 2007, CJ was informed by the EU services of a recalculation of his transferred pension rights due to the 2004 reform of the Staff Regulations, increasing the pensionable years that could be credited in the PSEUI to 4 years, 4 months and 24 days.

16 On 1 July 2020, at the age of 63 years and 11 months, as a result of the recalculation of his pension rights on 14 September 2007, CJ reached the maximum pension rate of 70%. However, he continued to work until 31 July 2022.

17 On 8 March 2022, CJ applied to the SFP for a retirement pension corresponding to the rights acquired prior to his entry into the service of the European Union.

18 By two decisions of 25 May 2022, the SFP granted CJ, respectively, a retirement pension in the gross monthly amount of EUR 533.85 from 1 August 2021 and a retirement pension in the gross monthly amount of EUR 577.85 from 1 August 2022, which is the date taken into consideration by the SFP as the date on which CJ ceased to work as an official.

19 On 5 July 2022, the EU authority responsible for settling CJ's pension rights sent him a notice setting out his pension rights with a view to his retirement on the evening of 31 July 2022, the last day of the month in which he reached the age of 66. That notice stated that 4 years, 4 months and 24 days had been taken into account because of the transfer of his Belgian pension rights and stated that CJ had accumulated a total of 79.21667% of pension rights, in particular because of the bonus of 13.75% acquired for having worked 5 years and 6 months after the normal retirement age. Those entitlements were subject to the 70% ceiling as laid down in the Staff Regulations.

20 On 6 July 2022, CJ informed the SFP that, since he had not received notification of the annual amount of the transferable retirement pension in 1995, 1996 or 1997, the final amount of that pension could not be regarded as established and his transfer application had to be regarded as revocable. Accordingly, he expressed his wish to no longer proceed with the transfer to the PSEUI of his pension rights acquired prior to his entry into the service of the European Union.

21 By communications dating from November and December 2022, the SFP confirmed that CJ was entitled to a retirement pension on the basis of his rights acquired as a worker in Belgium, with effect from 1 August 2021.

22 At the request of the SFP, the Commission informed that service, by email of 23 March 2023, that CJ had been in receipt of a retirement pension under the PSEUI since 1 August 2022. That institution confirmed to the SFP, by email of 31 March 2023, that that pension took account of the years of pensionable service resulting from the transfer of pension rights by the SFP.

23 Consequently, the SFP informed CJ of the suspension of his retirement pension payments under the Belgian national scheme. By decision of 17 April 2023, the SFP withdrew its decisions of 25 May 2022 referred to in paragraph 18 above. Acknowledging that it had committed an administrative error, the SFP did not require CJ to repay the sums unduly paid, but informed him that he was not entitled to a retirement pension under the Belgian national scheme from 1 August 2021.

24 CJ brought an action before the tribunal du travail francophone de Bruxelles (Brussels Labour Court (French-speaking), Belgium), which is the referring court, seeking the annulment of that decision of 17 April 2023, in order to have his retirement pension under the Belgian national scheme reinstated.

25 CJ argues that if the transfer of pension rights acquired prior to entry into the service of the European Union is irrevocable, his pension rights acquired in respect of his professional activities in Belgium between 1972 and 1992 would, in essence, be lost, since, for the calculation of his retirement pension under the PSEUI, those pension rights need not be taken into account. Under the subrogation mechanism, the Belgian State pays the EU institutions monthly the amount of the retirement pension corresponding to the rights acquired by CJ, whereas the retirement pension awarded to CJ under the PSEUI does not take account of years of pensionable service acquired by CJ before entering the service of the European Union, which would allow the EU to enrich itself at CJ's expense.

26 CJ claims that he did not receive the notifications, by registered letter, of the annual amounts of the retirement pension to be transferred or of the factors taken into account in the calculation of those amounts, which did not allow him to dispute or validate them, and therefore claims that those amounts must be regarded as not being definitive. He therefore considers that his request for the transfer to the PSEUI of his pension rights acquired under the Belgian national scheme may be revoked until the subrogation takes effect.

27 The SFP maintains that it no longer has proof that those notifications were sent by registered letter and claims, in essence, that CJ chose to request the transfer of his pension rights acquired under the Belgian national scheme to the PSEUI, which he must accept.

28 The referring court asks whether the irrevocable nature of the subrogation mechanism fails to have regard to the objective pursued by Article 11(2) of Annex VIII to the Staff Regulations. That mechanism is liable to deter a worker from entering the service of the European institutions, given the risk of losing the benefit of a retirement pension to which he would be entitled if he had not entered the service of the European Union, a risk which arises if, as in the present case, the official is entitled to the maximum amount of the pension under the PSEUI, without the pension rights transferred being taken into account. It therefore asks whether it is possible to challenge the amount of his retirement pension until the transfer of pension rights, by subrogation, has actually taken place. In that regard, the referring court cites the judgment of 10 November 1999, *Kristensen and Others* v *Council* (T-103/98, T-104/98, T-107/98, T-113/98 and T-118/98,

EU:T:1999:289), according to which transferred pension rights which are not taken into account when applying Article 11(2) of Annex VIII to the Staff Regulations must be reimbursed to the official.

29 The referring court also asks whether the transfer of those pension rights acquired before entry into the service of the European Union, by means of the subrogation mechanism, constitutes unjust enrichment of the European institutions.

30 In those circumstances, the tribunal du travail francophone de Bruxelles (Brussels Labour Court (French-speaking)) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'Where the legislation of a Member State provides that the transfer of the rights provided for in Article 11(2) of Annex VIII to the Staff Regulations of Officials of the European Union is to take place not by transferring the contributions at the time of establishment of the official of the European Union, but by subrogation of the European institutions to the pension rights accrued in that Member State from the date on which the official would have had access to that pension, must the abovementioned Article 11(2) and the principle of sincere cooperation enshrined in Article 4[(3) TEU] be interpreted, in the light of the objectives of the transfer, which are to enable the rights acquired by an EU official in a Member State to be retained for the benefit of that official and to guarantee the attractiveness of the European civil service, as requiring that legislation to permit the revocation of the transfer request up to the date on which the subrogation takes effect and the official obtains actual knowledge of the risk that he or she might not receive the benefit of a part of the rights acquired payable by that Member State?'

Consideration of the question referred

31 By its question, the referring court asks, in essence, whether Article 11(2) of Annex VIII to the Staff Regulations and the principle of sincere cooperation enshrined in Article 4(3) TEU must be interpreted as precluding national legislation under which the decision of an EU official to transfer to the PSEUI his or her pension rights acquired in a national pension scheme prior to his or her entry into the service of the European Union is irrevocable, where that legislation does not provide for the actual transfer of such pension rights on the date of that decision, but for such a transfer by subrogation of the EU institutions to those acquired rights from the date on which the official may claim his or her retirement pension, with the risk of unjust enrichment of the EU institutions.

32 As a preliminary point, it should be recalled that the Staff Regulations, which are of general application, are binding in their entirety and directly applicable in all Member States. It follows that, in addition to having effects within the EU administration, the Staff Regulations are binding on the Member States in all respects necessary for their application (see, to that effect, judgment of 4 February 2021, *Ministre de la Transition écologique et solidaire and Ministre de l'Action et des Comptes publics*, C-903/19, EU:C:2021:95, paragraphs 36 and 37 and the case-law cited).

33 Under Article 11(2) of Annex VIII to the Staff Regulations, any official or other servant who enters the service of the European Union after leaving the service of a government administration or of a national or international organisation or of an undertaking is entitled, upon establishment to have

paid to the European Union the actuarial equivalent of the retirement pension rights he or she has acquired in the administration, the national or international organisation or the undertaking to which he or she was attached.

34 First, the system for the transfer of pension rights, as set out in Article 11(2) of Annex VIII to the Staff Regulations, by enabling coordination between the national schemes and the EU pension scheme, is intended to facilitate transition from national, public or private employment to the EU administration and thus to ensure that the European Union has the best choice of qualified staff who already have appropriate professional experience (judgment of 16 December 2004, *My*, C-293/03, EU:C:2004:821, paragraph 44 and the case-law cited).

35 If a Member State refused to adopt the measures necessary for the transfer to the PSEUI of the actuarial equivalent or the flat-rate redemption value of retirement pension rights acquired under the national pension scheme, as provided for in Article 11(2) of Annex VIII to the Staff Regulations, a Member State might make the recruitment by the European Union of national officials with a certain length of service more difficult, since movement from the national administration to that of the European Union would entail the loss of pension rights to which they would be entitled if they had not accepted employment with the European Union (judgment of 4 February 2021, *Ministre de la Transition écologique et solidaire and Ministre de l'Action et des Comptes publics*, C-903/19, EU:C:2021:95, paragraph 34 and the case-law cited).

36 Such consequences cannot be accepted in the light of the duty of genuine cooperation and assistance which Member States owe the European Union and which finds expression in the obligation, laid down in Article 4(3) TEU, to facilitate the achievement of the European Union's tasks (judgment of 4 February 2021, *Ministre de la Transition écologique et solidaire and Ministre de l'Action et des Comptes publics*, C-903/19, EU:C:2021:95, paragraph 35 and the case-law cited).

37 Second, Article 11(2) of Annex VIII to the Staff Regulations seeks to ensure that officials may retain the rights which they have acquired in a Member State even though they may be limited, or even conditional or future, or insufficient to give rise to the immediate award of a pension, and also to ensure that account may be taken of those rights by the pension scheme to which the official concerned is affiliated at the end of his or her career (judgment of 20 October 1981, *Commission* v *Belgium*, 137/80, EU:C:1981:237, paragraph 12).

38 It follows from those considerations that the option referred to in Article 11(2) of Annex VIII to the Staff Regulations is intended to give officials a right the exercise of which depends solely on their own choice (see, to that effect, judgments of 20 October 1981, *Commission* v *Belgium*, 137/80, EU:C:1981:237, paragraph 13, and of 10 September 2015, *Wojciechowski*, C-408/14, EU:C:2015:591, paragraph 52).

39 Since Article 11(2) of Annex VIII to the Staff Regulations does not provide for the possibility of revoking the exercise of the option referred to in that provision, the decision to transfer pension rights to the PSEUI is final and irrevocable. That is confirmed by the fact that a new transfer of pension rights can take place only in the circumstances envisaged in Article 11(1), which presuppose the termination of the service of the person concerned.

40 However, the definitive and irrevocable nature of the decision to transfer pension rights acquired prior to entry into the service of the European Union does not, however, conflict with the objectives pursued by Article 11(2) of Annex VIII to the Staff Regulations, namely the preservation of acquired rights and the attractiveness of the EU civil service.

41 As regards the preservation of acquired rights, it should be noted that years of pensionable service acquired before entry into the service of the European Union make it possible to increase the number of years of service taken into account for the purposes of determining the percentage of the last basic salary which will constitute the retirement pension and thus to reach more quickly the ceiling of 70% of the final basic salary laid down in the second paragraph of Article 77 of the Staff Regulations. It cannot, therefore, be inferred that there has been a loss of acquired rights.

42 It should be noted in that regard that, although the possibility of transferring pension rights acquired before entering the service of the European Union gives the official concerned the guarantee that those rights will be taken into account under the PSEUI, that possibility does not, however, give him or her any certainty that that taking into account will result in an increase in the amount of his or her pension corresponding entirely to the capital transferred (see, to that effect, judgment of 4 May 2023, *KY* v *Court of Justice of the European Union*, C-100/22 P, EU:C:2023:377, paragraph 69).

43 As regards the attractiveness of the civil service, it should be borne in mind that the transfer of pension rights is an option granted to the official, which the official must exercise with full knowledge of the facts.

44 Therefore, irrespective of whether the national legislation at issue provides that the transfer of pension rights is to be effected by subrogation of the European institutions to those rights on the date on which the official retires or that those pension rights are transferred to the PSEUI on the date on which the official has decided on such a transfer, those same rights are in both cases taken into account and the attractiveness of the EU civil service is not, in either case, hindered in any way.

45 Consequently, compliance with the objectives pursued by Article 11(2) of Annex VIII to the Staff Regulations does not require provision to be made for the right to revoke the request for transfer of pension rights acquired prior to entry into the service of the European Union until the date on which the subrogation of the European institutions to those rights takes effect.

46 That interpretation cannot be different in the light of the principle of sincere cooperation which finds expression in the obligation, laid down in Article 4 TEU, to facilitate the achievement of the European Union's tasks.

47 As the Commission points out, the particular feature of the present reference for a preliminary ruling lies in the way in which the Kingdom of Belgium intended to comply with its obligations under the Staff Regulations by establishing, by the Law of 21 May 1991, a subrogation mechanism, whereby the EU institutions receive the amounts of retirement pensions under the national scheme for their retired officials, rather than by transferring pension rights on the date on which those officials requested the transfer of their rights. The purpose of that law was to bring to an end the infringement proceedings brought by the Commission for failure by the Kingdom of Belgium to comply with its obligations under Article 11(2) of Annex VIII to the Staff Regulations, proceedings that led to the Kingdom of Belgium being found guilty twice in the judgments of 20 October 1981, *Commission* v *Belgium* (137/80, EU:C:1981:237), and of

3 October 1989, *Commission* v *Belgium* (383/85, EU:C:1989:356). Since the subrogation mechanism provided for by the Law of 21 May 1991 allows the rights acquired with the SPF to be effectively retained after their transfer to the PSEUI, it follows that the Kingdom of Belgium has complied with the principle of sincere cooperation.

48 As regards the argument relating to unjust enrichment, it should be borne in mind that the retirement pension provided for in Article 77 of the Staff Regulations is calculated, as is apparent from the first paragraph of that Article 77 and from Article 2 of Annex VIII to the Staff Regulations, on the basis of the total number of years of pensionable service acquired by the official, to which the percentage provided for in the second paragraph of Article 77 of the Staff Regulations is applied and, where appropriate, within the limits of the ceiling laid down in that provision.

49 Those years of pensionable service correspond to the period during which the official concerned was in the service of the European Union and Article 11(2) of Annex VIII to the Staff Regulations gives the official the possibility of transferring to the PSEUI the pension rights he or she acquired before entering the service of the European Union so that those rights, credited by corresponding years of pensionable service, may be taken into account when calculating the amount of the pension to be awarded (see, to that effect, judgment of 4 May 2023, *KY* v *Court of Justice of the European Union*, C-100/22 P, EU:C:2023:377, paragraph 60).

50 It should be added that the method of calculating the number of years of pensionable service to be taken into consideration under the PSEUI, following the transfer of pension rights acquired under a national scheme, is based on the parameters referred to in Article 11(2) of Annex VIII to the Staff Regulations.

51 In accordance with the case-law referred to in paragraph 42 of the present judgment, although the possibility of transferring pension rights acquired before entering the service of the European Union offers the official in question the guarantee that those rights will be taken into account under the PSEUI, that possibility does not give him or her any certainty that that taking into account will result in an increase in the amount of his pension corresponding entirely to the capital transferred (see, to that effect, judgment of 4 May 2023, *KY* v *Court of Justice of the European Union*, C-100/22 P, EU:C:2023:377, paragraph 69).

52 The amount of the contributions paid is not linked proportionally to the amount of the pension received, that amount being calculated on the basis of the total number of years of contributions, including those acquired before entry into the service of the EU institutions, to which a percentage is applied, subject to a ceiling where applicable, in accordance with Article 77 of the Staff Regulations (judgment of 27 February 2025, *OA* v *Parliament*, C-32/24 P, EU:C:2025:118, paragraph 50). The PSEUI is organised on the basis of the principle of solidarity and is not designed in such a way that the pension received by an official or other servant corresponds exactly to the amount of contributions to that scheme.

53 In that regard, the subrogation mechanism for the benefit of the PSEUI, provided for by the Law of 21 May 1991, cannot be regarded as leading to unjust enrichment of the EU institutions on account of the mere fact that pension rights acquired prior to entry into the service of an EU institution are transferred to the PSEUI in the form of payments in instalments rather than as a lump sum at the time of the official's decision to transfer his pension rights. That fact has no effect on the applicant's pension rights and the calculation of the pension paid to him by the PSEUI.

54 It should also be noted that the judgment of 10 November 1999, *Kristensen and Others* v *Council* (T-103/98, T-104/98, T-107/98, T-113/98 and T-118/98, EU:T:1999:289), relied on by the referring court, concerns a different issue from that which arises in the present case. That judgment concerned the general implementing provisions adopted by the Council of the European Union, according to which the number of years of pensionable service to be taken into account for the determination of the retirement pension was calculated on the basis of the total amount transferred but that number could not exceed the number of years during which the person concerned had been affiliated to other pension schemes before he or she took up his or her duties in the European Union. In the case which gave rise to that judgment, which concerned a Council official, the number of years of pensionable service to be taken into account in respect of the period prior to entry into service on the basis of the capital transferred had been limited, in accordance with the general implementing provisions adopted by that institution, to the number of years during which the person concerned had been affiliated to other pension schemes before he took up his duties in the service of the European Union (see, to that effect, judgment of 4 May 2023, *KY* v *Court of Justice of the European Union*, C-100/22 P, EU:C:2023:377, paragraph 70). In the case in the main proceedings, the pension rights transferred were taken into account in their entirety. That judgment of the General Court is therefore not relevant to the answer to be given to the question raised.

55 Having regard to the foregoing, it is appropriate to answer the question posed that Article 11(2) of Annex VIII to the Staff Regulations and the principle of sincere cooperation enshrined in Article 4(3) TEU must be interpreted as not precluding national legislation under which the decision of an EU official to transfer to the PSEUI his or her pension rights acquired in a national pension scheme prior to his or her entry into the service of the European Union is irrevocable, where that legislation does not provide for the actual transfer of such pension rights on the date of that decision, but for such a transfer by subrogation of the EU institutions to those acquired rights from the date on which the official may claim his or her retirement pension, provided that the transferred pension rights are actually taken into account in the calculation of the amount of the pension awarded.

Costs

56 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Sixth Chamber) hereby rules:

Article 11(2) of Annex VIII to the Staff Regulations of Officials of the European Union, as amended by Council Regulation (EEC, Euratom, ECSC) No 571/92 of 2 March 1992, and the principle of sincere cooperation enshrined in Article 4(3) TEU,

must be interpreted as not precluding national legislation under which the decision of an EU official to transfer to the pension scheme of the European Union institutions his or her pension rights acquired in a national pension scheme prior to his or her entry into the service of the European Union is irrevocable, where that legislation does not provide for the actual transfer of such pension rights on the date of that decision, but for such a transfer by subrogation of the EU institutions to those acquired rights from the date on which the official may claim his or her retirement pension, provided that the transferred pension

rights are actually taken into account in the calculation of the amount of the pension awarded.

[Signatures]