On those grounds,

THE COURT

in answer to the question referred to it by the Cour du Travail, Mons, by a judgment of 21 January 1977, hereby rules:

So long as a worker is receiving a pension by virtue of national legislation alone, the provisions of Regulation No 1408/71 do not prevent the national legislation, including the national rules against the overlapping of benefits, from being applied to him in its entirety, provided that if the application of such national legislation proves less favourable than the application of the rules regarding aggregation and apportionment those rules must, by virtue of Article 46 (1) of Regulation No 1408/71, be applied.

Kutscher Sørensen Bosco Donner Mertens de Wilmars

Pescatore Mackenzie Stuart O'Keeffe Touffait

Delivered in open court in Luxembourg on 13 October 1977.

A. Van Houtte
Registrar

H. Kutscher
President

OPINION OF MR ADVOCATE-GENERAL WARNER
(see case 112/76, p. 1657)