Reports of Cases

JUDGMENT OF THE COURT (First Chamber)

21 January 2016*

(Failure of a Member State to fulfil obligations — Freedom of movement for persons — Workers — Articles 45 TFEU and 48 TFEU — Old-age benefits — Difference of treatment on the ground of age — Civil servants from a Member State under the age of 45 who leave that Member State to take up employment in another Member State or within an EU institution)

In Case C-515/14,

ACTION under Article 258 TFEU for failure to fulfil obligations, brought on 14 November 2014,

European Commission, represented by H. Tserepa-Lacombe and D. Martin, acting as Agents, with an address for service in Luxembourg,

applicant,

v

Republic of Cyprus, represented by N. Ioannou and D. Kalli, acting as Agents,

defendant,

THE COURT (First Chamber),

composed of R. Silva de Lapuerta (Rapporteur), President of the Chamber, A. Arabadjiev, J.-C. Bonichot, S. Rodin and E. Regan, Judges,

Advocate General: E. Sharpston,

Registrar: A. Calot Escobar,

having regard to the written procedure,

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

gives the following

Judgment

1 By its application the European Commission asks the Court to hold that by failing to repeal, with retroactive effect from 1 May 2004, the age-related criterion in Article 27 of Law 97 (I)/1997 on Pensions which deters workers from leaving their Member State of origin in order to work in another

* Language of the case: Greek.

Member State, or in an EU institution, or in another international organisation and which has the effect of creating unequal treatment between migrant workers including those who work in the EU institutions or in another international organisation, on the one hand, and civil servants who have worked in Cyprus, on the other, the Republic of Cyprus has failed to fulfil its obligations under Articles 45 TFEU and 48 TFEU and under Article 4(3) TEU.

The legal framework

2 Pursuant to Article 24(1) of Law 97 (I)/1997:

'When a civil servant leaves his employment to take up a post in the public sector which is incompatible with the position or post which he occupied previously, he shall receive in all cases for his service:

(a) a pension, in accordance with Article 8 (pension coefficient and lump sum), without taking into account the condition relating to 5 years' service; and

(b) a supplementary pension in an amount which the Ministerial Council considers fair and reasonable.'

3 Article 25(1) of that Law is worded as follows:

'If a civil servant in pensionable employment is authorised to leave that position because of his expected appointment to an organisation, the Government of the Republic of Cyprus shall pay to that organisation, at the time that the civil servant leaves the civil service, a lump sum equal to one twelfth of his pensionable monthly salary on the day he leaves the service for each month of service completed and a sum equivalent to the amount of the contributions paid by the civil servant for the transfer of the pension to his widow and children plus interest calculated at the rate fixed by the Finance Minister. In such a case, his public service is taken into account by the organisation in the calculation of the length of service which gives rise to the entitlement to benefits and for the calculation of the initial benefit which he has the right to receive from the organisation on the basis of the retirement benefits scheme in force in the organisation and which is similar to the government retirement scheme.'

4 Article 27(1) of Law 97 (I)/1997 provides:

'a) When a civil servant aged over 45 who occupies a pensionable position and who has completed 5 years or more of service ..., gives notice that he will leave the position, which is accepted by the competent body, he shall receive immediately the lump sum to which he is entitled for his service, whereas his pension is consolidated then paid when he reaches the age of 55 ... . The pension and the lump sum are calculated in accordance with Article 8 (pension coefficient and lump sum) on the basis of his pensionable salary on the day of his early retirement. The pension which shall be paid from the time that the interested party attains the age of 55 shall be increased, where applicable, by the percentage by which pensions have increased between the date of his departure and the date of payment of the pension ...

b) When a civil servant who occupies a pensionable position and who does not fulfil the other conditions referred to in paragraph a) above, but who has completed at least three years of pensionable service, resigns from his position with the permission of the competent body, he shall receive immediately following his resignation a lump sum equal to a twelfth of his monthly pensionable salary for each month of service completed.'

5 Article 26A of the Pension Amendment Law 31 (I)/2012 provides that civil servants who are in pensionable employment in the civil service and who leave that employment to perform a function in a permanent post within an EU institution have the right to payment by the Cypriot Government to the European Union of the amount representing the capital value of the benefits that they have acquired under the civil service pension scheme, up to the date the transfer is implemented. Article 26B of that law provides a similar right in relation to the transfer of pension rights from an EU pension scheme to the pension scheme of the national civil service where an EU official, who has acquired pension rights, is appointed to a pensionable civil service position. Those provisions, which amend the provisions of Law 97 (I)/1997, came into force with retroactive effect from 1 May 2004.

6 Law 113 (I)/2011 on pension benefits for civil servants and public sector employees, in the wider sense, including local authorities (provisions having general application) provide that new civil servants, that is to say, those civil servants appointed after that law came into force, namely 1 October 2011, are subject to another pension scheme which does not entail any difference of treatment on the ground of age.

Pre-litigation procedure

7 Having given the Republic of Cyprus formal notice that it should present its observations, the Commission sent it a reasoned opinion on the 26 March 2012 alleging that it had, from 1 May 2004, failed to repeal the provisions linked to age laid down in the Cypriot legislation on pensions and, therefore, had failed to fulfil its obligations under Articles 45 TFEU and 48 TFEU and Article 4(3) TEU, read in conjunction with Article 11(2) of Annex VIII to the Staff Regulations of Officials of the European Union. The Commission requested that Member State to take the measures necessary to comply with the reasoned opinion within two months of its notification.

8 In its reply of 28 May 2012 to that reasoned opinion, the Republic of Cyprus argued that, in so far as a legislative amendment had been made in order to allow the transfer of the pension rights of civil servants leaving that Member State to enter the service of an EU institution, any potential infringement of those EU provisions had been remedied.

9 Taking the view that that reply was not completely satisfactory, the Commission decided to bring the present action.

Admissibility

10 The Republic of Cyprus maintains that the action is inadmissible in that by introducing, for the first time in the application, arguments concerning the situation of civil servants appointed in another Member State to an international organisation other than the EU institutions, it broadens the subject-matter of the dispute, as circumscribed by the pre-litigation procedure.

11 Moreover, the Republic of Cyprus considers that the complaints relating to migrant workers in general are inadmissible on the ground that they are not sufficiently precise and that the letter of formal notice and the reasoned opinion refer only to EU officials as migrant officials.

12 It should be observed that, according to settled case-law of the Court, although it is true that the subject-matter of proceedings brought under Article 258 TFEU is circumscribed by the pre-litigation procedure provided for in that provision and, consequently, the Commission's reasoned opinion and the application must be based on the same complaints, that requirement cannot go so far as to mean that in every case exactly the same wording must be used in each, where the subject-matter of the

proceedings has not been extended or altered (see, in particular judgments in *Commission* v *Germany*, C-433/03, EU:C:2005:462, paragraph 28; *Commission* v *Finland*, C-195/04, EU:C:2007:248, paragraph 18; and *Commission* v *Netherlands*, C-576/10, EU:C:2013:510, paragraph 34).

13 Accordingly, in its application the Commission may clarify its initial complaints provided, however, that it does not alter the subject-matter of the dispute (see judgment in *Commission* v *Finland*, C-195/04, EU:C:2007:248, paragraph 18 and the case-law cited).

14 In the present case the Commission has neither extended nor amended the subject-matter of the action as circumscribed by the pre-litigation procedure.

15 First, as the Commission stated in its reply, the reference made to the situation of officials appointed to an international organisation, other than the European Union, situated in a Member State, other than the Republic of Cyprus, was not intended to widen the subject-matter of the action but only to show that Article 45 TFEU applied to the situation of an EU national who has completed periods of employment within an international organisation established on the territory of such a Member State for the purposes of conferring entitlement to an old-age pension.

16 In that regard, it must be stated that both in its letter of formal notice, its reasoned opinion and in its application the Commission raised a failure to fulfil obligations under Article 45 TFEU because of an impediment to the free movement of migrant workers including the abovementioned officials.

17 Secondly, although it is true that the letter of formal notice, the reasoned opinion and the application contained arguments concerning the particular circumstances of migrant workers employed in EU institutions, the fact remains that the Commission has, both in the pre-litigation procedure and in its application, maintained that the Cypriot legislation has the effect of impeding the free movement of migrant workers in general, without limiting its complaint to the situation of migrant workers leaving Cyprus to work in the EU institutions.

18 In those circumstances, the action of the Commission is admissible in its entirety.

The action

Arguments of the parties

19 The Commission maintains that, in so far as, pursuant to Article 27(1) of Law 97 (I)/1997, a civil servant under the age of 45 who resigns from his employment in the Cypriot civil service or from his service in an EU institution or other international organisation receives only a lump sum and loses his future pension rights, whereas a civil servant who continues to carry on a professional activity in Cyprus, or who leaves his employment in the civil service of that Member State to carry out certain public duties in that same Member State, or who is recruited by a body governed by Cypriot public law retains those rights, that provision places migrant workers at a disadvantage compared with those who carry on their professional activity only in Cyprus.

20 According to the Commission, Article 27(1) introduces a difference of treatment between the workers who have not exercised their right to freedom of movement and migrant workers to the detriment of the latter, since the loss of pension rights affects only workers who have exercised their right to freedom of movement.

21 Even if it is applicable without distinction, such a provision is likely to deter workers from leaving their Member State of origin to carry on an economic activity in another Member State or within an EU institution and therefore constitutes an impediment to the free movement of those workers, prohibited by Article 45 TFEU.

22 Likewise, the Commission considers that Article 27(1) of Law 97 (I)/1997 deprives a migrant worker of the opportunity to benefit from the aggregation of all insurance periods and does not guarantee the work record of that worker for the purposes of social security, as required under Article 48 TFEU.

23 The Commission observes that the adoption of Law 113 (I)/2011 has no bearing on the fact that Article 27(1) continues to apply to civil servants who entered into service before 1 October 2011, the date that law came into force.

24 In addition, the Commission takes the view that the condition linked to age, laid down in Article 27 of Law 97 (I)/1997, is likely to deter Cypriot civil servants from leaving the national civil service to work within an EU institution before reaching the age of 45, since by accepting employment within such an institution they lose the opportunity to benefit from a retirement pension under the national social security system to which they would have been entitled if they had not accepted that employment, which is not permissible under Article 45 TFEU and Article 4(3) TEU.

25 Finally, the Commission argues that the justification provided by the Republic of Cyprus has no direct relationship with the age-based discrimination at issue in the present case, that that Member State provided no evidence supporting its claim and that, furthermore, considerations of a purely economic nature cannot amount to overriding reasons in the public interest justifying a restriction of a fundamental freedom guaranteed by the FEU Treaty.

26 The Republic of Cyprus maintains that Article 48 TFEU does not apply and that it cannot serve as a basis for the Commission's action on the ground that, in essence, while that article constitutes the legal basis permitting the adoption of measures regulating the way in which insurance periods completed in different Member States are taken into consideration, it does not create, as such, a right for those periods to be taken into account.

27 According to that Member State, since the adoption of Law 97 (I)/1997, which came into force with retroactive effect from 1 May 2004, the condition linked to age laid down in Article 27 of Law 97 (I)/1997 no longer applies where a national civil servant leaves service in order to take up a position as an official in an EU institution, and vice versa.

28 The Republic of Cyprus takes the view that a civil servant leaving the Cypriot civil service to take up a post in the EU institutions is not only not subject to a difference in treatment but, on the contrary, that civil servant is subject to more favourable treatment than a civil servant leaving the Cypriot civil service to work for another employer in Cyprus, since the latter cannot transfer his pension rights.

29 Furthermore, that Member State argues that Article 27 of Law 97 (I)/1997 applies without distinction to workers who have spent all their working life on the national territory and to workers who have chosen to work in another Member State, irrespective of their nationality.

30 According to the Republic of Cyprus, that article entails the loss of an advantage, not as a result of the exercise of the right to freedom of movement, but on account of the decision of the worker to resign from the national civil service and to leave the corresponding occupational social security scheme.

31 Finally, the Republic of Cyprus submits that variations in the conditions under which social security benefits are granted could put the balance of the Cypriot system at risk, so that, even if that article introduces a restriction on the freedom of movement for workers, such a restriction is justified since it aims to ensure the balance of the occupational scheme for civil servants, whilst respecting the principle of proportionality.

Findings of the Court

32 As a preliminary point, the argument of the Republic of Cyprus that Article 48 TFEU cannot provide the basis for the Commission's action must be rejected.

33 Contrary to what is maintained by that Member State, the fact that that article provides a legal basis for the adoption of measures to provide freedom of movement for workers, inter alia, by making arrangements to ensure that all insurance periods completed in different Member States are taken into account, does not mean that that article is not relevant to the present action.

34 The Court has previously held that Article 48 TFEU, the objective of which is to contribute to the establishment of the greatest possible freedom of movement for migrant workers (see judgment in *da Silva Martins*, C-388/09, EU:C:2011:439, paragraph 70 and the case-law cited), entails in particular that migrant workers must not lose their right to social security benefits or have the amount of those benefits reduced because they have exercised the right to freedom of movement conferred on them by the Treaty (see judgments in *Nemec*, C-205/05, EU:C:2006:705, paragraph 38, and *Bouman*, C-114/13, EU:C:2015:81, paragraph 39).

35 Furthermore, the Court has also held that a request for aggregation may be satisfied in direct application of Articles 45 TFEU to 48 TFEU, without recourse to the coordination rules adopted by the Council in accordance with Article 48 TFEU (see, to that effect, judgment in *Vougioukas*, C-443/93, EU:C:1995:394, paragraph 36).

36 In addition, it should be noted that the Commission's action is based not exclusively, mainly, or predominantly on Article 48 TFEU but on an infringement of the right of freedom of movement for workers under Article 45 TFEU, read in conjunction with Articles 48 TFEU and Article 4(3) TEU.

37 Consequently, it is necessary to examine the compatibility of the Cypriot legislation at issue in the Commission's action, with those three provisions.

38 Although Member States retain the power to organise their social security schemes, they must nonetheless, when exercising that power, observe EU law and, in particular, the provisions of the EC Treaty on freedom of movement for workers and the right of establishment (see judgment in *Government of the French Community and Walloon Government*, C-212/06, EU:C:2008:178, paragraph 43).

39 In that regard, it should be recalled that it is settled case-law that all the provisions of the Treaty on freedom of movement for persons are intended to facilitate the pursuit by EU nationals of occupational activities of all kinds throughout the European Union, and preclude measures which might place such nationals at a disadvantage when they wish to pursue an economic activity in the territory of another Member State. In that context, nationals of the Member States have in particular the right, which they derive directly from the Treaty, to leave their State of origin to enter the territory of another Member State and reside there in order there to pursue an economic activity (see, in particular, judgments in *Ritter-Coulais*, C-152/03, EU:C:2006:123, paragraph 33; *Government of the French Community and Walloon Government*, C-212/06, EU:C:2008:178, paragraph 44; *Casteels*, C-379/09, EU:C:2011:131, paragraph 21; and *Las*, C-202/11, EU:C:2013:239, paragraph 19).

40 Indeed, while European Union primary law can offer no guarantee to an insured person that moving to another Member State will be neutral in terms of social security, in particular where sickness and old-age pension insurance are concerned, since, given the disparities between the Member States' social security schemes and legislation, such a move may be to the advantage of the person concerned in terms of social security, or not, depending on the circumstances, it is settled case-law that, where its application is less favourable, national legislation is consistent with EU law only to the extent that, in particular, such legislation does not place the worker at a disadvantage compared with those who pursue all their activities in the Member State where it applies and does not purely and simply result in the payment of social security contributions on which there is no return (see judgment in *Mulders*, C-548/11, EU:C:2013:249, paragraph 45 and the case-law cited).

41 Thus, the Court has repeatedly held that the aim of Articles 45 TFEU and 48 TFEU would not be achieved if, as a consequence of the exercise of their right to freedom of movement, migrant workers were to lose the social security advantages afforded them by the legislation of one Member State (see, inter alia, judgments in *Government of the French Community and Walloon Government*, C-212/06, EU:C:2008:178, paragraph 46; *da Silva Martins*, C-388/09, EU:C:2011:439, paragraph 74; and *Mulders*, C-548/11, EU:C:2013:249, paragraph 46).

42 Moreover, according to the Court's case-law, Articles 45 to 48 TFEU are intended in particular to prevent a worker who, by exercising his right of freedom of movement, has been employed in more than one Member State from being treated, without objective justification, less favourably than one who has completed his entire career in only one Member State (see judgment in *da Silva Martins*, C-388/09, EU:C:2011:439, paragraph 76).

43 In the present case it is apparent from the documents before the Court that, in accordance with Article 27(1) of Law 97 (I)/1997 read in conjunction with Articles 24 and 25 of that law, a civil servant under the age of 45 who resigns from employment in the Cypriot civil service to carry on a professional activity in another Member State, within an EU institution or other international organisation immediately receives a lump sum and loses the right to have his pension consolidated and paid at the age of 55, whereas a civil servant who continues in that employment or who leaves to take up another civil service position in Cyprus immediately receives that sum and retains that right.

44 In that regard, even if Law 113 (I)/2011 provides that 'new civil servants', namely those appointed after 1 October 2011, are subject to another pension scheme which does not involve such a difference in treatment, the fact remains that, as the Commission contends without being contradicted on that point by the Republic of Cyprus, the previous scheme, that is to say the scheme under Law 97 (I)/1997, continues to apply to civil servants appointed before that date, including those of them who have already left the service.

45 It follows that the Cypriot legislation at issue in the present case is likely to hinder, or to make less attractive, the exercise of the right to freedom of movement by the Cypriot civil servants concerned. That legislation may deter those civil servants from leaving their employment within the civil service of their Member State of origin to carry out a professional activity in another Member State, within an EU institution or other international organisation and, therefore, constitutes an obstacle to the freedom of movement for workers which is, in principle, prohibited by Article 45 TFEU.

46 As regards the Republic of Cyprus's argument that the legislation at issue in the present case does not treat migrant workers less favourably on the ground that it applies indiscriminately to all workers choosing to leave the Cypriot civil service in order to work in their Member State of origin or in another Member State, it should be recalled that for a measure to restrict freedom of movement, it is not necessary for it to be based on the nationality of the persons concerned or even for it to have the effect of bestowing an advantage on all national workers or of operating to the detriment solely of nationals of other Member States, but not of nationals of the State in question. It is enough that the measure should benefit certain categories of persons pursuing occupational activity in the Member

State in question (see judgments in *Bosman*, C-415/93, EU:C:1995:463, paragraphs 94 and 95, and *Government of the French Community and Walloon Government*, C-212/06, EU:C:2008:178, paragraph 50 and the case-law cited).

47 While the legislation at issue in the present case applies both to Cypriot civil servants choosing to resign in order to work in the private sector in their Member State of origin and to those resigning and leaving that Member State in order to work in another Member State, within an EU institution or other international organisation, the fact remains that that legislation may restrict the freedom of movement of the latter category of civil servants preventing or deterring them from leaving their Member State of origin to take up employment in another Member State, within an EU institution or in another international organisation. Such legislation directly affects the access of Cypriot civil servants to the employment market in Member States other than the Republic of Cyprus and is thus capable of impeding freedom of movement for workers (see, to that effect, judgment in *Bosman*, C-415/93, EU:C:1995:463, paragraphs 98 to 100 and 103).

48 Moreover, the amendments made to Law 97 (I)/1997 by Law 31 (I)/2012, which came into force with retroactive effect from 1 May 2004, providing, inter alia, that civil servants in a position with pension rights in the Cypriot civil service who leave that position for a permanent post in an EU institution have the right to have paid, by the Cypriot Government to the European Union, the sum representing the capital value of the benefits that they have acquired through the civil service pension scheme, do not remove all forms of obstacle to the freedom of movement of the civil servants concerned, since they do not apply to the situation of those civil servants who choose not to transfer their pension rights. If those civil servants resign, or have resigned, from the Cypriot civil service before reaching the age of 45, they lose their pension rights.

49 In that regard, the circumstance relied on by the Republic of Cyprus that those civil servants can, in addition to the payment of a lump sum under Law 97 (I)/1997, benefit from a pension under Social Security Law 59 (I)/2010 if they satisfy the conditions laid down by that law, is not such as to call into question the existence of the obstacle identified in the paragraph above.

50 In its reply the Commission stated, without being contradicted on that point by the Republic of Cyprus, that unlike a civil servant who resigns after reaching the age of 45 and who is entitled to a pension both under Law 97 (I)/1997 and under Law 59 (I)/2010, a civil servant in a post with pension rights in the Cypriot civil service who decides to leave that post before having reached that age to work in an EU institution without transferring his pension rights does not have the right to a pension under Law 97 (I)/1997.

51 Thus, the Cypriot legislation may deter the abovementioned group of civil servants from leaving Cyprus to work within an EU institution since, by accepting employment within such an institution, they lose the right to benefit under the national sickness insurance scheme from old-age benefits to which they would have been entitled had they not accepted that employment (see, to that effect, judgments in *My*, C-293/03, EU:C:2004:821, paragraph 47; *Rockler*, C-137/04, EU:C:2006:106, paragraph 19; and *Öberg*, C-185/04, EU:C:2006:107, paragraph 16).

52 In addition to the fact that it constitutes an obstacle prohibited by Article 45 TFEU, such a consequence cannot be accepted in the light of the duty of sincere 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 EU's tasks (see, to that effect, judgment in *My*, C-293/03, EU:C:2004:821, paragraph 48).

53 As regards the argument of the Republic of Cyprus that the obstacle to the free movement of workers resulting from the provisions of Article 27 of Law 97 (I)/1997 is justified by the fact that variations in the conditions for the grant of social security benefits might put the balance of the system at risk and that those provisions are intended to ensure that balance subject to the principle of proportionality, it

should be noted that while reasons of a purely economic nature cannot constitute overriding reasons in the public interest justifying a restriction of a fundamental freedom guaranteed by the Treaty (see judgments in *Verkooijen*, C-35/98, EU:C:2000:294, paragraph 48; *Kranemann*, C-109/04, EU:C:2005:187, paragraph 34; and *Thiele Meneses*, C-220/12, EU:C:2013:683, paragraph 43), national legislation may, however, constitute a justified restriction on a fundamental freedom when it is dictated by reasons of an economic nature in the pursuit of an objective in the public interest (see judgment in *Essent and Others*, C-105/12 to C-107/12, EU:C:2013:677, paragraph 52). Therefore, it is conceivable that the risk of seriously undermining the financial balance of the social security system may constitute an overriding reason in the public interest capable of justifying the undermining of the provisions of the Treaty concerning the right of freedom of movement for workers (see, to that effect, judgment in *Kohll*, C-158/96, EU:C:1998:171, paragraph 41)

54 However, according to the settled case-law of the Court, it is for the competent national authorities, where they adopt a measure derogating from a principle enshrined by European Union Law, to show in each individual case that that measure is appropriate for securing the attainment of the objective relied upon and does not go beyond what is necessary to attain it. The reasons invoked by a Member State by way of justification must thus be accompanied by an analysis of the appropriateness and proportionality of the measure adopted by that State and by specific evidence substantiating its arguments. Such an objective, detailed analysis, supported by figures, must be capable of demonstrating, with solid and consistent data, that there are genuine risks to the balance of the social security system (see, in particular, judgments in *Commission* v *Belgium*, C-254/05, EU:C:2007:319, paragraph 36, and *Bressol and Others*, C-73/08, EU:C:2010:181, paragraph 71).

55 It must be noted that in the present case such evidence is lacking. The Cypriot Government merely alludes to a risk of imbalances in the social security system and maintains that the legislation at issue meets the requirement of proportionality referred to in the paragraph above.

56 Consequently, there is no justification for the obstacle to the free movement of workers at issue in the present case.

57 Therefore, the action brought by the Commission must be declared to be well founded.

58 In those circumstances, it must be held that by failing to repeal, with retroactive effect from 1 May 2004, the age-related criterion in Article 27 of Law 97 (I)/1997 which deters workers from leaving their Member State of origin in order to work in another Member State, or within an EU institution, or other international organisation and which has the effect of creating unequal treatment between migrant workers including those who work within the EU institutions or within another international organisation, on the one hand, and civil servants who have worked in Cyprus, on the other, the Republic of Cyprus has failed to fulfil its obligations under Articles 45 TFEU and 48 TFEU and under Article 4(3) TEU.

Costs

59 Under Article 138(1) of the Rules of Procedure of the Court, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Commission has applied for costs against the Republic of Cyprus and since it has been unsuccessful, it must be ordered to pay the costs.

On those grounds, the Court (First Chamber) hereby:

1. **Declares that by failing to repeal, with retroactive effect from 1 May 2004, the age-related criterion in Article 27 of Law 97 (I)/1997 on Pensions which deters workers from leaving their Member State of origin in order to work in another Member State, or within an EU**

institution, or other international organisation and which has the effect of creating unequal treatment between migrant workers including those who work within the EU institutions or within another international organisation, on the one hand, and civil servants who have worked in Cyprus, on the other, the Republic of Cyprus has failed to fulfil its obligations under Articles 45 TFEU and 48 TFEU and under Article 4(3) TEU;

2. Orders the Republic of Cyprus to pay the costs.

[Signatures]