



## Pension Cuts Due to Council Decisions

### *Fact of the case:*

C and A were employees of the Telecommunications Organization SA and have retired according to the relevant procedure laid down in national law in the country E.

Because the country's debt crisis posed a threat to the other Euro area Member States and there was a danger to the stability of the Euro area as a whole, the Eurozone leaders and governments agreed to establish a transnational support mechanism for E.

The granting of loans under the support mechanism would be conditional and would follow a formal request on behalf of the country E. The country E, abiding by the relevant timetable, undertakes a series of fiscal consolidation measures to reduce public spending and increase government revenue; to strengthen budgetary oversight and budgetary discipline and also structural measures to improve the competitiveness of the economy in general.

For the implementation of the fiscal adjustment measures imposed by the relevant decisions, the country E adopted laws and, consequently, the State Social Security Organisation issued relevant circulars.

Successive legislative provisions imposed the abolition of personal leave, Christmas and Passover holiday benefits for certain categories of pensioners, the reduction of primary pensions, the introduction of a special contribution to supplementary retirement insurance and the reduction of supplementary pensions.

C and A requested that the Council of the EU provided restitution for their pecuniary and non-pecuniary damages, as resulted from the adoption of deficit reduction measures in accordance with the relevant Council Decisions.

### *Arguments to be considered*

According to article 52(2) CFR, rights recognised by the Charter, which are based on the Community Treaties or the Treaty on European Union are to be exercised under the conditions and within the limits defined by those Treaties.

### *Legal Framework*

#### **Relevant European Law**

##### *Treaty on the Functioning of the EU (TFEU)*

Article 126 (9): If a Member State persists in failing to put into practice the recommendations of the Council, the Council may decide to give notice to the Member State to take, within a specified time limit, measures for the deficit reduction which is judged necessary by the Council in order to remedy the situation.



In such a case, the Council may request the Member State concerned to submit reports in accordance with a specific timetable in order to examine the adjustment efforts of that Member State.

Article 136: 1. In order to ensure the proper functioning of economic and monetary union, and in accordance with the relevant provisions of the Treaties, the Council shall, in accordance with the relevant procedure from among those referred to in Articles 121 and 126, with the exception of the procedure set out in Article 126(14), adopt measures specific to those Member States whose currency is the euro:

(a) to strengthen the coordination and surveillance of their budgetary discipline;

(b) to set out economic policy guidelines for them, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance.

2. For those measures set out in paragraph 1, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

A qualified majority of the said members shall be defined in accordance with Article 238(3)(a).

## Relevant National Law

Article 3 of law 3845/2010 (O.G.G. Issue A' 65/6.5.2010) revoked personal leave, Christmas and Passover holiday benefits for pensioners under 60 years of age, as well as for those receiving pensions higher than € 2.500, and restricted these benefits for pensioners over 60 who were receiving pensions lower than € 2.500.

Article 11 of law 3863/2010 (O.G.G Issue A' 115/15.7.2010) reduced primary pensions by 3-10%, depending on the size of the pension.

Articles 12 and 44 of law 3986/2011 (O.G.G Issue A' 152/1.7.2011) further reduced primary pensions by 3-14% of their size prior to law 3863/2010. Article 44 also reduced supplementary pensions by 3-10%, and levied on pensioners receiving them a special social contribution.

Article 2 of law 4024/2011 (O.G.G. Issue A' 226/27.10.2011) further reduced primary pensions by 20-40%, starting 1/1/2011, depending on the pensioner's age and the size of the pension.

Article 6 of law 4051/2012 (O.G.G. Issue A' 40/29.2.2012) reduced former private employees' primary pensions, exceeding € 1.300, by a further 12%, and supplementary pensions by a further 20%, starting 1/1/2012.

Law 4093/2012 (O.G.G. A' 222/12.11.2012) abolished the remaining personal leave, Christmas and Passover holiday benefits.

## Questions

1. Can C and A make a claim to the General Court of the Court of Justice of the European Union?
2. Which articles of the Charter can they invoke to substantiate their claims?
3. Can any breach of the above-mentioned articles give rise to liability of the EU in the present case?
4. Are the privileges to be invoked by C and A absolute privileges, which are unconstrained?
5. If the answer is negative, can you specify the article that allows such a restriction?
6. What would be, in your opinion, the final judgment of the Court?