



Case 2010-018f

C. C., n°2010-018f, 25 February 2010

Country: Belgium

Region: Europe

Year: 2010

Court: Court constitutionnelle [Constitutional Court of Belgium]

Health Topics: Health systems and financing, Occupational health

Human Rights: Freedom from discrimination, Right to due process/fair trial

Facts

This case was about the difference in treatment provided by the law between civil servants and employees as concerned expenses incurred by claims relating to social security.

The Anvers Court of Appeal asked the Constitutional Court about the validity of article 1017, paragraph 2, of the Belgian Judicial Code in regard to articles 10 and 11 of the Constitution, which concerned equality before the law and freedom from discrimination. The article in question created a difference in treatment between socially insured persons in whether they were employees or civil servants, as concerned who was required to pay the expenses when they filed social-security related judicial complaints.

This case was brought by the Court of Appeal, which had heard a case appealing the decision of the Court of First Instance regarding a postman who had alleged that the reduced pensions for married civil servants (as opposed to the full pensions for non-married civil servant cohabitants) was discriminatory. The Court of Appeal rejected this allegation but referred the question regarding expenses to the Constitutional Court.

Decision and Reasoning

The Court held that the law in question created an unreasonably-justified difference in treatment, with respect to expenses for claims brought before the court relating to social security, between employees and civil servants because the analogous laws did not expressly provide that payment for the civil servant's court expenses be paid by the relevant authority. Thus, the Court ruled that article 1017, paragraph 2, of the Judicial Code violated articles 10 and 11 of the Constitution.

Decision Excerpts

« (i) this provision instils a difference in treatment between two categories of socially insured persons: on the one hand, the employee which has filed a judicial complaint against the authority or organization responsible for enforcing the laws and regulations referred to in article 580, 2°, of the Judicial Code, and, on the other hand, the member of the civil service statutory personnel who files a complaint against the authority or organization responsible for enforcing the analogous laws and regulations relating to the social security relevant to this type of personnel.

Only the first is assured that, except in cases of frivolous or vexatious requests, he will not be condemned to the expenses. » (paragraph B.2.)

« (i) cette disposition instaure une différence de traitement entre deux catégories d'assurés sociaux : d'une part, le travailleur salarié qui introduit une demande en justice contre l'autorité ou l'organisme tenu des lois et règlements visés à l'article 580, 2°, du Code judiciaire et, d'autre part, le membre du personnel statutaire de la fonction publique qui introduit une demande en justice contre l'autorité ou l'organisme tenu d'appliquer les lois et règlements analogues relatifs à la sécurité sociale propre à ce type de personnel.

Seul le premier a la garantie que, sauf en cas de demande téméraire ou vexatoire, il ne sera pas condamné aux dépens. » (paragraphe B.2.)

« It appears that, with the provision in question, the legislator wished to avoid, originally, that parties which benefited from a free procedure before the transfer of the disputes relating to social security to the labour jurisdictions could, following this transfer of competence, be mandated to pay expenses when they lose. »

(paragraphe B.3.2.)

« Il apparaît que, par la disposition en cause, le législateur a voulu éviter, à l'origine, que des parties qui bénéficieraient d'une procédure gratuite avant le transfert des litiges en matière de sécurité sociale aux juridictions du travail puissent, par suite de ce transfert de compétence, être condamnées aux dépens lorsqu'elles succombent. » (paragraphe B.3.2.)

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