JUDGMENT OF THE COURT (Third Chamber)

8 May 2019(*)

(Reference for a preliminary ruling — Equal treatment for men and women in matters of social security — Directive 79/7/EEC — Article 4 — Prohibition of any discrimination on the ground of sex — Indirect discrimination — Part-time work — Calculation of retirement pension)

In Case C-161/18,

REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunal Superior de Justicia de Castilla y León (High Court of Justice of Castile and León, Spain), made by decision of 17 January 2018, received at the Court on 27 February 2018, in the proceedings

Violeta Villar Láiz

v

Instituto Nacional de la Seguridad Social (INSS),

Tesorería General de la Seguridad Social (TGSS),

THE COURT (Third Chamber),

composed of A. Prechal (Rapporteur), President of the Chamber, F. Biltgen, J. Malenovský, C.G. Fernlund and L.S. Rossi, Judges,

Advocate General: H. Saugmandsgaard Øe,

Registrar: L. Carrasco Marco, Administrator,

having regard to the written procedure and further to the hearing on 10 January 2019,

after considering the observations submitted on behalf of:

– Ms Villar Láiz, by R.M. Gil López, abogada,

– the Instituto Nacional de la Seguridad Social (INSS) and the Tesorería General de la Seguridad Social (TGSS), by A. Alvarez Moreno and G. Guadaño Segovia, lawyers,

– the Spanish Government, by L. Aguilera Ruiz and V. Ester Casas, acting as Agents,

– the European Commission, by S. Pardo Quintillán and C. Valero, acting as Agents,

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

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 21 of the Charter of Fundamental Rights of the European Union (‘the Charter’) and Article 4 of Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (OJ 1979 L 6, p. 24).

2 The request has been made in proceedings between Ms Violeta Villar Láiz, on the one hand, and the Instituto Nacional de la Seguridad Social (INSS) (National Institute of Social Security (INSS), Spain) and the Tesorería General de la Seguridad Social (TGSS) (General Social Security Fund (TGSS), Spain), on the other, in relation to the calculation of her retirement pension.

Legal context

EU law

Directive 79/7

3 Article 1 of Directive 79/7 provides:

‘The purpose of this Directive is the progressive implementation, in the field of social security and other elements of social protection provided for in Article 3, of the principle of equal treatment for men and women in matters of social security, hereinafter referred to as “the principle of equal treatment”.’

4 Article 3(1) of that directive provides:

‘This Directive shall apply to:

(a) statutory schemes which provide protection against the following risks:

…

– old age,

…’

5 Article 4(1) of that directive provides:

‘The principle of equal treatment means that there shall be no discrimination whatsoever on ground of sex either directly, or indirectly by reference in particular to marital or family status, in particular as concerns:

– the scope of the schemes and the conditions of access thereto,

– the obligation to contribute and the calculation of contributions,

– the calculation of benefits including increases due in respect of a spouse and for dependants and the conditions governing the duration and retention of entitlement to benefits.’

Directive 2006/54/EC

6 Recital 30 of Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ 2006 L 204, p. 23), is worded as follows:

‘The adoption of rules on the burden of proof plays a significant role in ensuring that the principle of equal treatment can be effectively enforced. As the Court of Justice has held, provision should therefore be made to ensure that the burden of proof shifts to the respondent when there is a prima facie case of discrimination, except in relation to proceedings in which it is for the court or other competent national body to investigate the facts. It is however necessary to clarify that the appreciation of the facts from which it may be presumed that there has been direct or indirect discrimination remains a matter for the relevant national body in accordance with national law or practice. Further, it is for the Member States to introduce, at any appropriate stage of the proceedings, rules of evidence which are more favourable to plaintiffs.’

7 Article 2(1) of that directive provides:

‘For the purpose of this Directive, the following definitions shall apply:

…

(b) “indirect discrimination”: where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary;

…’

Spanish law

8 Article 209(1) of the Ley General de la Seguridad Social (General Law on Social Security), in the consolidated version approved by Real Decreto Legislativo 8/2015 (Royal Legislative Decree 8/2015), of 30 October 2015 (BOE No 261 of 31 October 2015, p. 103291, and corrigendum, BOE No 36 of 11 February 2016, p. 10898) (‘the LGSS’), provides:

‘The basic amount for calculation of the retirement pension shall be the quotient given by dividing by 350 the contribution bases of the interested party during the 300 months immediately before the month preceding the event giving rise to the entitlement ...’

9 The eighth transitional provision of the LGSS states:

‘… As from 1 January 2016, the basic amount for calculation of retirement pension shall be the quotient arising from the division by 266 of the contribution bases during the 228 months immediately before the month preceding the event giving rise to the entitlement ...’

10 Article 210(1) of the LGSS provides:

‘The amount of the retirement pension shall be determined by applying to the basic amount, calculated in accordance with the provisions of the preceding article, the following percentages:

(a) 50% for the first 15 years of contributions;

(b) From the 16th year onwards, each additional month of contributions shall give rise to the application of a percentage which shall amount, between the 1st and 248th month, to 0.19% and, for each month following the 248th, 0.18%, but the percentage applicable to the basic amount must not exceed 100% …

…’

11 For the year 2016, in accordance with the 9th transitional provision of the LGSS, from the 16th year onwards, each additional month of contributions is to give rise to the application of a percentage which will amount, between the 1st and 163rd months, to 0.21% and, for each of the 83 following months, 0.19%, up to the maximum of 100%.

12 Articles 245 to 248 of the LGSS establish the rules applicable to part-time workers for the purposes of the grant of financial benefits from the social security system.

13 Article 245 of the LGSS, that article being headed ‘Social Protection’, provides:

‘1. The social protection derived from part-time employment contracts is governed by the principle that a part-time worker is to be treated in the same way as a full-time worker …

2. The rules laid down in this section shall be applicable to workers employed on part-time contracts, part-time relief contracts and so-called *fijo-discontinuo* contracts [permanent seasonal contracts], in accordance with the provisions of Articles 12 and 16 of the recast Ley del Estatuto de los Trabajadores [(the Workers’ Statute)], falling within the scope of the general rules, including part-time

workers or workers employed on *fijo-discontinuo* contracts falling within the scope of the special rules relating to domestic workers.'

14 Article 246 of the LGSS, headed 'Contributions', provides:

'1. The basis of social security contributions and of employer contributions paid jointly to it is always determined monthly and is constituted of the remuneration actually received in consideration of hours worked, both ordinary and supplementary.

2. The basis of contribution thus determined may not be less than the amounts determined by legislation.

3. Supplementary hours give rise to social security contribution following the same bases and rates as ordinary hours.'

15 Article 247 of the LGSS, on the calculation of contribution periods, provides:

'For the purposes of evidence of contribution periods necessary to provide an entitlement to retirement, permanent invalidity, death and survivor, temporary invalidity, maternity and paternity benefits, the following rules shall apply:

(a) The various periods during which a worker has been affiliated on a part-time contract shall be taken into account, whatever the duration of the period of work carried in each of those periods.

To that effect, the reduction factor relative to part-time work, which shall be determined according to the percentage which the time of part-time work carried out bears to the time of work carried out by a comparable full-time worker, shall be applied to the affiliation period covering employment on a part-time contract, the result being the number of days for which contributions shall be considered to have been actually made for each period.

Where necessary, there should be added, to the number of days resulting from that calculation, the full-time days of contribution, the result being the total number of days of contributions that are to be taken into account with respect to access to benefits.

(b) Once the attested number of days of contributions is determined, the overall reduction factor relative to part-time work shall be calculated, that factor corresponding to the percentage represented by the ratio of the number of days worked and taken into account as contribution days, in accordance with the provisions of the preceding point (a), to the total number of days of affiliation throughout the worker's working life …

(c) The minimum contribution period required of part-time workers for each of the financial benefits for which such a period is fixed shall be arrived after the general application to the period concerned of the overall reduction factor relative to part-time work mentioned in point (b).

In circumstances in which, for the purposes of access to the corresponding financial benefit, there is a requirement that all or part of the minimum contribution period requested should fall within a specified time frame, the overall reduction factor relative to part-time work shall be applied to fix the contribution period that may be required. The time frame within which the period to be required will have to fall shall, in any event, be that established generally for the benefit concerned.'

16 Article 248 of the LGSS, headed 'Amount of financial benefits', states:

'1. The determination of the basic amount of the financial benefits shall be governed by the following rules:

(a) The basic amount of the retirement and permanent invalidity benefits shall be calculated in accordance with the general rule.

…

2. In order to calculate retirement pensions and pensions for permanent invalidity due to an ordinary illness, periods not subject to a contribution obligation shall be taken into consideration by taking account of the minimum contribution base applicable from time to time, for the number of hours provided for in the employment contract.

3. In order to determine the amount of retirement pensions and pensions for permanent invalidity resulting from non-occupational illness, the number of days of contribution calculated in accordance with the provisions of Article 247(2)(a) shall be increased … by the application of a factor of 1.5, but the number of days thus arrived at may not be greater than the period of part-time employment.

The percentage to be applied to the basic amount under consideration shall be determined in accordance with the general scale referred to in Article 210(1), subject to the following exception:

…'

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

17 It is apparent from the order for reference that Ms Villar Láiz made an application to the INSS for payment of a retirement pension.

18 The INSS granted her a retirement pension as from 1 October 2016, the value of that pension being calculated by multiplying the basic amount by a reduction factor of 53%, that factor taking account of the fact that Ms Villar Láiz had worked part-time for a significant part of her working life.

19 The referring court explains that that basic amount is derived from the average of the contribution bases, calculated according to the wages actually received for the hours worked and for which contributions were made over a number of years preceding retirement.

20 Ms Villar Láiz requested that, for the calculation of the amount of her retirement pension, a factor of 80.04% should be applied, so that her periods of part-time work should be taken into consideration in the same way as periods of full-time work.

21 That request having been dismissed, Ms Villar Láiz brought an action before the Juzgado de lo Social No 4 de Valladolid (Employment Tribunal No 4 of Valladolid, Spain). She claimed that the difference in treatment established by the national legislation gave rise to indirect discrimination on the ground of sex, since the majority of part-time workers were women.

22 By judgment of 30 June 2017, the Juzgado de lo Social No 4 de Valladolid (Employment Tribunal No 4 of Valladolid) dismissed the action, on the ground that the difference in treatment of part-time workers in the calculation of the retirement pension did not constitute discrimination, since the formula applied is intended to adjust the calculation in line with the contributions paid, in accordance with the principle *pro rata temporis*.

23 Ms Villar Láiz brought an appeal against that judgment before the referring court.

24 That court explains that the system for the calculation of the retirement pension was introduced following delivery of judgment No 61/2013 of the Tribunal Constitucional (Constitutional Court, Spain) of 14 March 2013. In that judgment, the Tribunal Constitucional (Constitutional Court), taking account of the judgment of the Court of Justice of 22 November 2012, *Elbal Moreno* (C-385/11, EU:C:2012:746), declared to be unconstitutional the previous system, which, with respect to access to a retirement pension, took account of periods of part-time work in proportion to the time of full-time work, by applying however a multiplication factor of 1.5. Under that system, if the time worked as thus calculated did not exceed 15 years, the worker had no access to a retirement pension. Under the reform that was enacted, the legislature amended the system for access to the retirement pension, introducing, for the calculation of the amount of the pension, a reduction factor for workers who had worked part time.

25 As a general rule, the amount of the pension would correspond to the basic amount, based on the average of the contribution bases in the years preceding the retirement, multiplied by a percentage that was determined according to the number of years of contribution.

26 As regards more specifically part-time workers, the rules for the calculation of that percentage are laid down in Article 247 of the LGSS. It follows from that article that periods of part-time work are taken into account not in their entirety, but in proportion to the extent to which the work is part time, by the application of the reduction factor corresponding to the percentage represented by the ratio of the time of the worker engaged in part-time work to that of a comparable worker who is employed full time.

27 Last, in accordance with Article 248(3) of the LGSS, the number of days of contribution determined on the basis of that calculation is to be increased by the application of a multiplication factor of 1.5, but the number of days so arrived at may not be greater than those on which a contribution was actually made.

28 According to the referring court, the result is that, in cases of periods of part-time work, Spanish law has, most often, adverse effects for part-time workers as compared with full-time workers, and only in some cases, a minority of cases, are the effects neutral, where the reduction factor linked to part-time work is greater than or equal to two thirds of full-time work.

29 It follows that the system for the calculation of the pension is doubly detrimental in the case of part-time work. In addition to the fact that the wages of a part-time worker and, therefore, the basic amount applicable are lower than those of a full-time worker, that system reduces, in proportion to the extent to which the work is part time, the period of contribution taken into consideration in order to establish the percentage applicable to the basic amount.

30 The referring court explains that the detrimental effect of the national system on the calculation of the retirement pension in cases of part-time work primarily affects women, since, according to the Instituto Nacional de Estadística (National Institute of Statistics, Spain), 75% of part-time workers in the first quarter of 2017 were women.

31 In those circumstances, the referring court considers that the provisions at issue in the main proceedings involve indirect discrimination on the ground of sex, contrary to Article 4(1) of Directive 79/7 and Article 21 of the Charter. The provisions of national law concerned do not appear to serve a legitimate social policy objective or, at the least, are not proportionate to such an objective.

32 The referring court considers that it is impossible to interpret the LGSS in a way that is compatible with Article 4(1) of Directive 79/7. In that regard, the referring court adds that national legislation such as that at issue in the main proceedings cannot, in accordance with the case-law of the Tribunal Constitucional (Constitutional Court), be set aside by a Spanish court, unless that court has made a reference for a preliminary ruling to the Court of Justice, or has referred a preliminary question of unconstitutionality to the Tribunal Constitucional (Constitutional Court).

33 In those circumstances, the Tribunal Superior de Justicia de Castilla y León (High Court of Justice of Castile and León) decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

‘(1) Under Spanish law, in order to calculate a retirement pension, a percentage based on the number of years for which contributions have been paid throughout the person’s entire working life must be applied to the basic amount, which is calculated on the basis of earnings in the most recent years. Must a rule of national law, such as that in Article 247(a) and Article 248(3) of the [LGSS] which reduces the number of qualifying years for the purpose of applying the percentage in the case of periods of part-time work, be considered contrary to Article 4(1) of [Directive 79/7]? Does Article 4(1) of Directive [79/7] require that the number of years of contributions that are taken into account in order to determine the percentage to be applied in calculating the retirement pension be determined in the same way for full-time workers and part-time workers?

(2) Must a rule of national law such as that in dispute in the present proceedings be interpreted as also being contrary to Article 21 of [the Charter], thus requiring the national court to give full

effect to the Charter and to refrain from applying the disputed provisions of national law, without requesting or awaiting the prior setting aside of the provisions by legislative or other constitutional means?'

Consideration of the questions referred

The first question

34 By its first question, the referring court seeks, in essence, to ascertain whether Article 4(1) of Directive 79/7 must be interpreted a precluding legislation of a Member State, such as that at issue in the main proceedings, which provides that the amount of the contributory retirement pension of a part-time worker is to be calculated by multiplying a basic amount, established on the basis of remuneration actually received and contributions actually paid, by a percentage which is related to the length of the contribution period, that period being modified, by a reduction factor equal to the ratio of the duration of the part-time work actually carried out to the duration of the work carried out by a comparable full-time worker, and increased by the application of a factor of 1.5.

35 Article 4(1) of that directive prohibits any discrimination on the ground of sex, either directly, or indirectly, as concerns, inter alia, the calculation of social security benefits.

36 In that regard, it is clear, from the outset, that a rule of national law such as that at issue in the main proceedings is not directly discriminatory on the ground of sex, since it applies without distinction to both male and female workers.

37 As regards whether such a rule of law constitutes indirect discrimination, it must be recalled that that concept must, in the context of Directive 79/7, be understood in the same way as in the context of Directive 2006/54 (see, to that effect, judgment of 26 June 2018, *MB (Change of gender and retirement pension)*, C-451/16, EU:C:2018:492, paragraph 34). It is apparent from Article 2(1)(b) of Directive 2006/54 that there is discrimination based indirectly on sex in a situation where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.

38 The existence of such a particular disadvantage might be established, for example, if it were proved that legislation such as that at issue in the main proceedings is to the disadvantage of a significantly greater proportion of individuals of one sex as compared with individuals of the other sex (see, to that effect, judgment of 14 April 2015, *Cachaldora Fernández*, C-527/13, EU:C:2015:215, paragraph 28 and the case-law cited). It is for the national court to determine whether that is the case in the main proceedings.

39 In the event that, as in this case, the national court has statistical evidence available to it, the Court has previously held that the best approach to the comparison of such evidence is to consider, on the one hand, the respective proportions of workers who are and who are not affected by the rule at issue within the male workforce and, on the other, the same proportions within the female workforce. It is not sufficient to consider the number of persons affected, since that depends on the number of working people active in the Member State as a whole as well as the percentages of men and women employed in that Member State (see, to that effect, judgment of 9 February 1999, *Seymour-Smith and Perez*, C-167/97, EU:C:1999:60, paragraph 59).

40 In that regard, it is for the national court to assess to what extent the statistical evidence adduced before it concerning the situation of the workforce is valid and can be taken into account, that is to say, whether, for example, it illustrates purely fortuitous or short-term phenomena, and whether, in general, it appears to be significant (see, to that effect, judgment of 9 February 1999, *Seymour-Smith and Perez*, C-167/97, EU:C:1999:60, paragraph 62 and the case-law cited).

41 In this case, it is apparent from the order for reference that the provisions of national law at issue in the main proceedings have, most often, effects that place part-time workers at a disadvantage as compared with full-time workers. Only in a limited number of cases do those provisions not have such an effect,

due to the mitigating effects of the measure that provides for, with respect to part-time workers, an increase in the accepted number of days of contribution by the application of a factor of 1.5.

42 Further, the statistical evidence mentioned by the referring court in its request for a preliminary ruling indicates that, in the first quarter of 2017, the total number of wage earners in Spain was 15 906 700, of whom 8 332 000 were men and 7 574 600 were women. In that same period, the number of part-time wage earners was 2 460 200 (15.47% of wage earners), of whom 613 700 were men (7.37% of male wage earners) and 1 846 500 were women (24.38% of female wage earners). It follows from that data that, in that period, approximately 75% of part-time workers were women.

43 The Spanish Government submits nonetheless that, of the total number of retirement pension cases successfully dealt with by the INSS in the period between 2014 and 2017, in which periods of part-time work and part-time contributions were taken into consideration by taking account of the overall rate of part-time work, approximately 60% of them concerned women and 40% concerned men.

44 That said, it must be emphasised that, as regard the group of workers specifically affected by the provisions of national law at issue in the main proceedings, it is apparent from the documents available to the Court that, with respect to 65% of part-time workers, namely those who have worked, on average, less than two thirds of the normal duration of work of a full-time worker, the reduction factor applicable to the basic amount is lower than that applicable to the basic amount of full-time workers. It follows that the workers on short part-time contracts are placed at a disadvantage because of the application of that reduction factor.

45 As stated above in paragraph 40 of the present judgment, it is for the referring court to determine whether that statistical evidence is valid, representative and significant. In that regard, it must, in particular, be recalled that the comparison set out in paragraph 39 of the present judgment must concern, in this case, the group of workers engaged in short part-time work as the group of workers actually affected by the legislation at issue in the main proceedings.

46 Further, as is also apparent from recital 30 of Directive 2006/54, the appreciation of the facts from which it may be presumed that there has been indirect discrimination is the task of the national judicial authority, in accordance with national law or national practices which may provide, in particular, that indirect discrimination may be established by any means, and not only on the basis of statistical evidence (see, by analogy, judgment of 19 April 2012, *Meister*, C-415/10, EU:C:2012:217, paragraph 43).

47 If the referring court, on the basis of the statistical evidence produced and, as the case may be, other relevant information, were to come to the conclusion that the national legislation at issue in the main proceedings places women at a particular disadvantage as compared with men, such legislation would be contrary to Article 4(1) of Directive 79/7, unless it were justified by objective factors unrelated to any discrimination on grounds of sex.

48 That would be the case where the measures chosen reflect a legitimate social policy objective of the Member State whose legislation is at issue, they are appropriate to achieve the objective pursued by that Member State and they are necessary for that purpose (see, to that effect, judgment of 22 November 2012, *Elbal Moreno*, C-385/11, EU:C:2012:746, paragraph 32 and the case-law cited).

49 In that regard, the INSS and the Spanish Government argue that a proportional reduction in the retirement pension in cases of part-time work constitutes the expression of a general social policy objective pursued by the national legislature, since that correction is essential within a social security system that relies on contributions. Such a reduction must be made in the light of the principle of contribution and the principle of equal treatment of part-time and full-time workers and is objectively justified by the fact that, in cases of part-time work, the pension is the counterpart of less work carried out and a smaller contribution to the system.

50 In that regard, it must be recalled that the mere fact that the amounts of retirement pensions are adjusted *pro rata temporis*, in order to take account of the reduced time worked by a part-time worker as compared with that of a full-time worker, cannot be considered to be contrary to EU law (see, to that

effect, order of 17 November 2015, *Plaza Bravo*, C-137/15, EU:C:2015:771, paragraph 27 and the case-law cited).

51 However, the Court has also held that a measure which has the effect of reducing a worker's retirement pension by a proportion greater than that resulting when his periods of part-time work are taken into account cannot be regarded as objectively justified on the ground that the pension is in that case consideration for less work (judgment of 23 October 2003, *Schönheit and Becker*, C-4/02 and C-5/02, EU:C:2003:583, paragraph 93).

52 In this case, it is apparent from the order for reference that the national legislation at issue in the main proceedings contains two elements that are liable to reduce the amount of the retirement pensions of part-time workers. First, the basic amount of the retirement pension is established according to the bases of contribution, constituted by the remuneration actually received in consideration of hours worked. It follows that the basic amount is, for a part-time worker, lower than the basic amount of a comparable full-time worker. Second, while that basic amount is multiplied by a percentage according to the number of days of contribution, that number of days is itself modified by a reduction factor corresponding to the ratio of the time of part-time work actually carried out by the worker concerned to the time of work carried out by a comparable full-time worker.

53 Admittedly, that second element is mitigated by the fact that, in accordance with Article 248(3) of the LGSS, the number of days of contribution established after the application of the reduction factor is to be increased by the application of a multiplication factor of 1.5.

54 However, it must be stated that the first element, namely the fact that the basic amount is, for a part-time worker, as the counterpart of the fact that less work was carried out, lower than the basic amount of a comparable full-time worker, is itself capable of ensuring the achievement of the objective pursued, which includes the protection of a social security system that relies on contributions.

55 Accordingly, the application, in addition, of a reduction factor relative to part-time work goes beyond what is necessary to attain that objective and entails for the group of workers engaged in short part-time work, that is to say less than two thirds of comparable full-time work, a reduction in the amount of the retirement pension greater than that which would result from merely taking account *pro rata temporis* of their time worked.

56 In those circumstances, the answer to the first question is that Article 4(1) of Directive 79/7 must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, which provides that the amount of retirement pension based on contributions of a part-time worker is to be calculated by multiplying a basic amount, established from the remuneration actually received and contributions actually paid, by a percentage which relates to the length of the period of contribution, that period being itself modified, by a reduction factor equal to the ratio of the time of part-time work actually carried out to the time of work carried out by a comparable full-time worker, and increased by the application of a factor of 1.5, to the extent that that legislation places at a particular disadvantage workers who are women as compared with workers who are men.

The second question

57 In the light of the answer to the first question, there is no need to reply to the second question.

Costs

58 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national 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 (Third Chamber) hereby rules:

Article 4(1) of Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security must be interpreted

as precluding legislation of a Member State, such as that at issue in the main proceedings, which provides that the amount of retirement pension based on contributions of a part-time worker is to be calculated by multiplying a basic amount, established from the remuneration actually received and contributions actually paid, by a percentage which relates to the length of the period of contribution, that period being itself modified, by a reduction factor equal to the ratio of the time of part-time work actually carried out to the time of work carried out by a comparable full-time worker, and increased by the application of a factor of 1.5, to the extent that that legislation places at a particular disadvantage workers who are women as compared with workers who are men.

[Signatures]

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* Language of the case: Spanish.