



29.8.2014

## NOTICE TO MEMBERS

**Subject: Petition No 1379/2013 by Bernd Fritz (German) on the unequal pension treatment of widows in the case couples with a major age difference in Germany**

### 1. Summary of petition

The petitioner refers to the difference in the pension treatment of widows in Germany depending on their age. If they are over 48 years old when their spouse dies, they will receive a full survivor's pension amounting to approximately EUR 700. If, however, they are below 48 years of age, they will receive only 25% of that pension, or about EUR 250 - too small an amount to live on, especially if for some reason they are unable to work. The discrimination is more pronounced in the case of couples with a major age difference: where the husband dies having paid a large amount in insurance contributions during his working life, his widow will be unable to benefit from them, as she does not meet the prescribed age limit.

### 2. Admissibility

Declared admissible on 5 May 2014. Information requested from Commission under Rule 216(6).

### 3. Commission reply, received on 29 August 2014

The design and management of social protection systems is a responsibility of the Member States. Details on how survivor's benefits are designed in different Member States can be found in the EU's Mutual Information System on Social Protection (MISSOC, <http://www.missoc.org>). The eligibility for survivor's benefits is often linked to age, as well as to the presence of young children and the ability to work of the surviving spouse. These conditions determine the ability of a surviving spouse to earn an adequate income and hence

the need for social protection through survivor's benefits. The Commission does not regard such conditions as discriminatory in a way that would be contrary to EU legislation.

EU level Directive 79/7/EEC provides for progressive implementation of the principle of equal treatment for men and women in matters of social security and statutory schemes. Thus, in principle this Directive guarantees that men and women have the same rights in this area but does not set any detailed provisions as regards for example the amount of pension or the conditions which have to apply. This is left to Member State's discretion.

Moreover, according to Article 3(2) of the Directive it does not apply to survivor's benefits. For this reason, it does not cover the situation mentioned by the petitioner.

In addition, a potential discrimination on the grounds of age would also not be covered by EU law. Age discrimination is prohibited by Directive 2000/78/EC only in the area of employment. A proposal for a Directive extending the protection against age discrimination to other areas, including social security, was adopted by the Commission in 2008 but is still under discussion.

#### Conclusion

According to the legal assessment of the Commission, the case does not fall within the scope of EU law.