



The “Picard” judgment what will be the consequences for all of us ?

Staff Matters 26 follow-up

In [StaffMatters 26](#), we examined the judgment ‘Picard’. Many of you ask us whether this judgment will apply to their case. Let’s try to make sense of it all.

What does Picard say ?

The European Union Pension Scheme (EUPS) was amended in 2004 and 2014: the retirement age was increased from 60 to 63 years and then 66 and the accrual rate (= the percentage of the last salary earned for each year in service) decreased from 2 % to 1.9 % and then 1.8 %. In both 2004 and 2014, transitional arrangements were introduced to respect the rights of staff already in place. For officials, this is not a problem. However, for temporary and contractual-agents, the institutions considered that any change of contract resulted in a new recruitment that would lead to the loss of acquired rights. In that judgment, the Court of Justice ruled that a member of the contract staff who had been recruited before 2014 and had continued to contribute to our pension scheme without interruption (even by changing institution or function group) had to be considered as having remained in service and had to benefit from the same transitional arrangements as if he had remained in the same place, with the same contract.

Am I concerned by that judgment?

You are concerned if, between 1 May 2004 and your (future) retirement, or between 1 January 2014 and your (future) retirement, you have changed your status (contract/ temporary/official) or if, even in keeping the same status as a contract or temporary agent, you have changed institution (or agency) or contract (e.g. in another function group).

However, you are not affected if you were and remained an official, or if you were recruited after 1 January 2014.

How can I ensure that this judgment will be properly applied to me ?

There are two elements to be taken into account here:

- the administrations will automatically apply the Picard judgment to all those who are in exactly the same situation as the judgment; if that is your case, you have nothing to do;
- if you are in a somewhat different but similar situation, the administrations may not apply this judgment to you automatically. But even in this case, you need to act only if you are close to retirement age.

Let us start with this second point.

If you are around forty years of age and you ask now the administration to take a position on your pension rights, you may be forced to go to the Court of Justice, with considerable costs, in order to obtain an answer that may no longer be valid if there is a further change in our pension system. It would be idiot: above all, do nothing now.

On the other hand, if you are close to sixty, your pensionable age may be 62, 63 or 66 depending on whether you are considered to have been recruited after 2014, between 2004 and 2014 or before 2004. It is probably important for you to know which scheme you are covered by. It might be useful to ask your administration for decisions on your pension rights.



This is even more so if you have already received a calculation of your pension rights and the Picard judgment has not been applied to you. In this case, it is possible to lodge a complaint within three months of receipt of your statement of entitlements.

What if you are already retired? In principle, there is nothing to do anymore because your situation has become definitive. However, we will discuss with our lawyers whether there is a legal possibility to request retroactive application.

In which cases will there be an automatic application and in which cases will it be necessary to submit a request and / or a complaint ?

Of course, we cannot speak in place of the administrations, which have not yet communicated on this point. However, we can already give you some guidance.

If you have maintained the same status (contractual or temporary), without interruption, even by changing contract, function group or institution, the application should be automatic.

This should also be the case if you have moved from temporary to official or vice versa. Administrations may be more reluctant for colleagues who have moved from contract staff to official (or temporary staff member) on the grounds that this change of status results in a recalculation of pension rights (Article 3(d) of Annex VIII to the Staff Regulations). That recalculation is, however, solely linked to the difference in salary and not to the change in the applicable rules. If our administrations refuse to apply Picard, in this case, there will undoubtedly be appeals for which favorable outcome seems to be obvious. If you are in this situation and close to retirement, we advise you to contact a lawyer.

Another aspect could be problematic, namely a small interruption in the provision of services. Many colleagues had, between two contracts, a few days, a few weeks and sometimes a few months of interruption. Here too, it will be for the Court of Justice to indicate from what period of interruption we can speak of new recruitment.

In conclusion

- for most of you, there is nothing to do and above all you are advised not to do anything;
- a request (or complaint) is justified only if you are close to retirement age and you have had a small break in your career or have moved from contract agent to official. If you meet both conditions, contact a lawyer.

In order to contact a lawyer from Union Syndicale and obtain our financial support, our members must first contact the secretariat of Union Syndicale in their institution or a member of the Executive Committee.

Warning

Although this letter of legal information has been carefully prepared, it cannot replace an individual legal adviser. Each situation has many aspects and requires a complex legal analysis and an individual action strategy. Instead of acting solely on the basis of generic explanations or precedents, instead contact our legal experts for legal advice individual and/or to represent you.