

Case C-94/07 Raccanelli [2008] ECR I-05939

Facts: The applicant was an Italian researcher working on a grant at the Max Planck Institutes (MPI) in Germany. During that period, he was awarded a monthly grant to enable him to prepare his doctorate in Germany and abroad. The applicant contended that during the period he worked, he was an employee under Art. 45 TFEU, and was entitled to the same benefits as his German colleagues. The questions for the Court were whether he could be considered a worker, and whether there was discrimination in awarding him less favourable treatment than the German nationals. It is important to note that while the MPI was established under private law in the form of an association, most of its funding was sources by the German central and regional governments.

Held: The applicant could be a worker under Art. 45 TFEU if activities were performed for a certain period of time under the direction of an institute forming part of that association and if, in return for those activities, he received remuneration – ultimately this was for the national court to decide. Moreover, the private nature of the MPI was irrelevant in considering the applicability of Art. 45 TFEU: a private-law association in the form of an association operating in the public interest was required observe the principle of non-discrimination in relation to workers within the meaning of that Article. While the question was ultimately for the national court to decide, the Court clearly recognised the horizontal direct effect of Art. 45 TFEU.