



## NEWS REPORT

<b>Date:</b>	9 June 2010
<b>Expert:</b>	Sophie Latraverse
<b>Title:</b>	First Constitutional referral by the Conseil d'Etat relates to discrimination regarding the amount of pensions paid to veterans from former colonies
<b>Country:</b>	France
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Discrimination regarding retirement benefits
<b>Ground of discrimination:</b>	race/ethnic origin
<b>Source:</b>	national court decision, Constitutional Council , 28 May 2010, no 2010- 1 QPC
<b>Field:</b>	Employment
<b>Legislative provisions:</b>	Article 6 of The Declaration of the Rights of Man and the Citizen

### Content

**Case:** As a result of independence acquired by former French colonies, the State has frozen the payment of retirement benefits to veterans of former colonies and has put in place specific re-evaluation mechanisms for each country. The regime was deemed to be discriminatory on the ground of nationality and contrary to Article 14 ECHR, Article 1 of Protocol 1 to the ECHR and the Euro Mediterranean Conventions in a number of decisions rendered by the Conseil d'Etat (30 November, 2001, no 212179, 212211, DIOP) and the HALDE ( no 2006-217 and 2007-044).

Further to these administrative decisions, the State amended Article 68 of the Corrective Law of Finance for 2002 but without completely removing the difference in treatment between French citizens and citizens of former colonies. Consequently, more cases were brought before the administrative courts. Being called upon again, the Conseil d'Etat referred the question of constitutionality of provisions relating to the re-evaluation of veteran pensions of Algerian citizens to the Constitutional Council.

**Decision of the Court:** The Constitutional Council concluded that the veteran pension scheme regarding citizens of Algeria was discriminatory and contrary to Article 6 of the Declaration of Rights of Man and of the

Citizen of 1789 that also forms part of the French Constitution of 1958 by reference to its Preamble. The Council considers that the re-evaluation scheme in place maintains a difference in treatment on the basis of nationality between Algerian citizens and French citizens who reside in Algeria, which is contrary to the principle of equality. Therefore, the Council declared unconstitutional the provisions regarding re-evaluation pension scheme and annulled the military, veteran and invalid veteran pension re-evaluation mechanisms for Algeria.

**Internet link source and additional information:**

<http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/2010/2010-1-qpc/decision-n-2010-1-qpc-du-28-mai-2010.48290.html>