

Netherlands
Raad van State
1 November 2004
200404249/1

Subject: Residence permit – employee in the sense of article 39 EC – unemployment – Regulation 1251/70 – case 9/88 (Lopes da Veiga), ECJ 27 september 1989

Parties: P. Delgado against the Minister for Immigration and Integration

Summary: A Portuguese sailor contested the refusal of the Minister for Immigration and Integration to grant him a residence permit. The sailor had sailed on ships under Dutch flag between 1964 and 1991 and had lived in the Netherlands since 1991 receiving a social security allowance until he reached a pensionable age in 1997. The Administrative Jurisdiction Division of the Raad van State agreed that in the light of the ECJ judgement in case 9/88 (Lopes da Veiga), during his employment and several years afterwards including the period commencing with the reaching of his pensionable age, the appellant had the right to a residence permit on the basis of article 39 EC in conjunction with Regulation 1251/70. However, the appellant never had made a request for renewal of his residence permit and moreover, if the permit had been renewed, it would have expired due to his long period of unemployment of more than 6 years. The Raad van State draws the conclusion that at the time of the refusal of the permit no rights could have been derived from Regulation 1251/70.