

SUMMARY

**ECJ 12 March 2020, case C-769/18)
(Caisse d'assurance retraite and de la
santé au travail d'Alsace-Moselle),
Social insurance**

***Caisse d'assurance retraite et de la santé au travail d'Alsace-Moselle -
v - SJ, Ministre chargé de la Sécurité sociale, French/German case***

Summary

The assistance for integration of mentally disabled children and young people, provided for in the German Social Code does not constitute a benefit within the meaning of Article 3 of Regulation 883/2004 and therefore falls outside its material scope. Moreover, Article 5 precludes that the German provision at issue and the child-rearing allowance for a disabled child provided for in the French Social Security Code cannot be considered issues of an equivalent nature for the purpose of Article 5(a). The principle of equal treatment of facts enshrined in Article 5(b) applies, so that the French authorities must take into account similar facts occurring in Germany as though they had taken place on their own territory.

Question

Must Article 3 of Regulation No 883/2004 be interpreted as meaning that the German assistance constitutes a benefit within the meaning of Article 3 and accordingly falls within the material scope of that regulation.

If the answer to the first question is in the affirmative, must Article 5(a) of Regulation No 883/2004 be interpreted as meaning that the French allowance and the German assistance may be considered to be equivalent benefits, within the meaning of that provision.

Ruling

Article 3 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, as amended by Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009, must be interpreted as meaning that the assistance for integration of mentally disabled children and young people, provided for in Paragraph 35a of Book VIII, of the Sozialgesetzbuch (German Social Code), does not constitute a benefit within the meaning of Article 3 and, therefore, does not fall within the material scope of that regulation.

Article 5 of Regulation No 883/2004, as amended by Regulation No 988/2009, must be interpreted as meaning that:

the child-rearing allowance for a disabled child, provided for in Article L. 541-1 of the Code de la sécurité sociale (French Social Security Code), and the assistance for integration of mentally disabled children and young people, provided for in Paragraph 35a of Book VIII of the German Social Code, cannot be considered to be benefits of an equivalent nature, for the purposes of Article 5(a);

the principle of equal treatment of facts enshrined in Article 5(b) applies in circumstances such as those at issue in the main proceedings. It is therefore for the competent French authorities to ascertain whether, in the present case, it is established that the fact required for the purposes of that provision has occurred. In that connection, those authorities must take into account similar facts occurring in Germany as though they had taken place on their own territory.

Creator: European Court of Justice (ECJ)

Verdict at: 2020-03-12

Case number: C-769/18