

SUMMARY

ECJ 16 June 2022, case C-328/20 (Commission v Austria (Indexation des prestations familiales)), Social Insurance, Free Movement

European Commission and intervening parties - v - Republic of Austria and intervening parties, Austrian case

Summary

It is not allowed to vary benefits of workers with children in another member state depending on the price level in the country of residence of the children. The ECJ's summary of the case is available on <https://curia.europa.eu/jcms/upload/docs/application/pdf/2022-06/cp220102en.pdf>.

Order

The Court (Second Chamber):

Declares that, by establishing the adjustment mechanism resulting from the amendments to Paragraph 8a of the Bundesgesetz betreffend den Familienlastenausgleich durch Beihilfen (Federal Law on compensation for family expenses by means of allowances) of 24 October 1967, as amended by the Bundesgesetz mit dem das Familienlastenausgleichsgesetz 1967, das Einkommensteuergesetz 1988 und das Entwicklungshelfergesetz geändert werden (Federal Law amending the Federal Law of 1967 on compensation for family expenses by means of allowances, the Federal Law of 1988 on the taxation of the income of natural persons and the Law on the status of development aid workers) of 4 December 2018, and to Paragraph 33 of the Bundesgesetz über die Besteuerung des Einkommens natürlicher Personen (Federal Law on the taxation of the income of natural persons) of 7 July 1988, as amended by the

Jahressteuergesetz 2018 (Annual Tax Law of 2018) of 14 August 2018, and by the Federal Law amending the Federal Law of 1967 on compensation for family expenses by means of allowances, the Federal Law of 1988 on the taxation of the income of natural persons and the Law on the status of development aid workers of 4 December 2018 applicable to family allowances and the child tax credit for workers whose children reside permanently in another Member State, the Republic of Austria has failed to fulfil its obligations under Articles 4 and 67 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, and under Article 7(2) of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union;

Declares that, by establishing the adjustment mechanism resulting from the amendments to Paragraph 8a of the Bundesgesetz betreffend den Familienlastenausgleich durch Beihilfen (Federal Law on compensation for family expenses by means of allowances) of 24 October 1967, as amended by the Bundesgesetz mit dem das Familienlastenausgleichsgesetz 1967, das Einkommensteuergesetz 1988 und das Entwicklungshelfergesetz geändert werden (Federal Law amending the Federal Law of 1967 on compensation for family expenses by means of allowances, the Federal Law of 1988 on the taxation of the income of natural persons and the Law on the status of development aid workers) of 4 December 2018, and to Paragraph 33 of the Bundesgesetz über die Besteuerung des Einkommens natürlicher Personen (Federal Law on the taxation of the income of natural persons) of 7 July 1988, as amended by the Jahressteuergesetz 2018 (Annual Tax Law of 2018) of 14 August 2018, and by the Federal Law amending the Federal Law of 1967 on compensation for family expenses by means of allowances, the Federal Law of 1988 on the taxation of the income of natural persons and the Law on the status of development aid workers of 4 December 2018 applicable to the Family Bonus Plus, the sole earner's allowance, the single parent's allowance and the tax credit for maintenance payments, for migrant workers whose children reside permanently in another Member State, the Republic of Austria has failed to fulfil its obligations under Article 7(2) of Regulation No 492/2011;

Orders the Republic of Austria to bear its own costs and to pay those incurred by the European Commission;

Orders the Czech Republic, the Kingdom of Denmark, the Republic of Croatia, the Republic of Poland, Romania, the Republic of Slovenia and the Slovak Republic, and the Kingdom of Norway and the EFTA Surveillance Authority to bear their own costs.

Creator: European Court of Justice (ECJ)

Verdict at: 2022-06-16

Case number: C-328/20