

## SUMMARY

# **ECJ 1 August 2022, case C-411/20 (Familienkasse Niedersachsen- Bremen), Social Insurance**

***S - v - Familienkasse Niedersachsen-Bremen der Bundesagentur für Arbeit, German case***

### **Summary**

A Member State cannot exclude Union citizens who are nationals of another Member State from entitlement to family benefits during the first three months of their residence in that Member State if they are not in receipt of national income during that period, while a national of the Member State concerned who returns to that Member State after having resided in another Member State in accordance with EU law is entitled to such benefits on return without receiving such income.

### **Questions**

Must Article 4 of Regulation No 883/2004 and Article 24 of Directive 2004/38 be interpreted as precluding legislation of a Member State under which a Union citizen, who is a national of another Member State, who has established his or her habitual residence on the territory of the first Member State and who is economically inactive in so far as he or she is not in gainful employment in that State, is refused an entitlement to 'family benefits', within the meaning of Article 3(1)(j) of Regulation No 883/2004, read in conjunction with Article 1(z) thereof, during the first three months of his or her residence in the territory of that Member State, whereas an economically inactive national of that Member State is entitled to such benefits, including during the first three months following his or her return to the same Member State after having made use, under EU law, of his or her right to move and reside in another Member State?

### **Ruling**

Article 4 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 must be interpreted as precluding legislation of a Member State under which a Union citizen, who is a national of another Member State, who has established his or her habitual residence on the territory of the first Member State and who is economically inactive in so far as he or she is not in gainful employment in that State, is refused an entitlement to ‘family benefits’, within the meaning of Article 3(1)(j) of that regulation, read in conjunction with Article 1(z) thereof, during the first three months of his or her residence in the territory of that Member State, whereas an economically inactive national of that Member State is entitled to such benefits, including during the first three months following his or her return to the same Member State after having made use, under EU law, of his or her right to move and reside in another Member State.

Article 24(2) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC must be interpreted as meaning that it is not applicable to such legislation.

---

**Creator:** European Court of Justice (ECJ)

**Verdict at:** 2022-08-01

**Case number:** C-411/20