

SUMMARY

ECJ 25 April 2024, case C-36/23 (Familienkasse Sachsen) Social insurance

L – v – Familienkasse Sachsen der Bundesagentur für Arbeit, German case

Summary

In the circumstances that an institution of the Member State which has primary competence, does not pay the family benefits and fails to take a position on the application for transmission, the institution of the other Member State to which the application was first made, will have to pay the benefits provided under its legislation, but may subsequently claim from the primary competent institution reimbursement of the amount of the family benefits which exceeds that which is required to pay under the provisions of Regulation No 883/2004.

Question

Must Article 68 of Regulation no 883/2004, which lays down the rules of priority in the case of overlapping of family benefits, be interpreted as allowing the institution of a Member State whose legislation does not have priority in accordance with the criteria set out in paragraph 1 of that article to claim from the person concerned the partial reimbursement of such benefits paid in that Member State, on account of the existence of a right to those benefits provided for in the legislation of another Member State applicable by priority, even if no family benefits has been fixed or paid in that other Member State.

Ruling

Article 68 of Regulation no 883/2004, which lays down the rules of priority in the case of overlapping of family benefits, must be interpreted as meaning that although it does not allow the institution of a Member State whose legislation does not have priority according to the

criteria referred to in paragraph 1 of that article to claim from the person concerned partial reimbursement of such benefits paid in that Member State, on account of the existence of a right to those benefits provided for in the legislation of another Member State applicable by priority, where no family benefit has been fixed or paid in that other Member State, it nevertheless allows that institution to claim from the institution with primary competence the reimbursement of the amount of benefits which exceeds that which it is required to reimburse under the provisions of that regulation.

Creator: European Court of Justice (ECJ)

Verdict at: 2024-04-25

Case number: C-36/23