

Press and Information

Court of Justice of the European Union PRESS RELEASE No 86/14

Luxembourg, 19 June 2014

Judgment in Case C-507/12 Jessy Saint Prix v Secretary of State for Work and Pensions

A woman who gives up work or seeking work, because of the physical constraints of the late stages of pregnancy and the aftermath of childbirth can retain the status of 'worker'

To do so, she must return to work or find another job within a reasonable period after the birth of her child

In the United Kingdom, income support is a benefit which may be granted to certain categories of people whose income does not exceed a defined amount. Women who are pregnant or who have recently given birth may be eligible for that benefit, in particular during the period surrounding childbirth. However, 'people from abroad' (that is, claimants who do not habitually reside in the UK) are not entitled to that benefit, unless they have acquired the status of worker within the meaning of the directive on the right of free movement and residence of Union citizens.¹

Jessy Saint Prix is a French national who entered the UK on 10 July 2006 where she worked, mainly as a teaching assistant, from 1 September 2006 until 1 August 2007. At the beginning of 2008 Ms Saint Prix took up agency positions, working in nursery schools. On 12 March 2008, already nearly six months' pregnant, Ms Saint Prix stopped that work because the demands of caring for young children had become too strenuous. The claim for income support made by Ms Saint Prix was refused by the UK authorities on the grounds that Ms Saint had lost her status as a worker. On 21 August 2008, three months after the birth of her child, Ms Saint Prix resumed work.

Called upon to examine whether Ms Saint Prix was entitled to income support, the Supreme Court of the United Kingdom has asked the Court of Justice whether a woman who gives up work, or seeking work, because of the physical constraints of the late stages of pregnancy and the aftermath of childbirth is a 'worker' for the purposes of EU law.²

In today's judgment, the Court considers that a woman in the situation of Ms Saint Prix can retain the status of 'worker'. In support of its reasoning, the Court noted that an EU citizen who no longer pursues an activity can still retain the status of worker in specific cases (temporarily unable to work, involuntary unemployment or vocational training).³ The Court observed that the directive on the right of free movement and residence of an EU citizen does not list exhaustively the circumstances in which a migrant worker who is no longer in employment may nevertheless continue to benefit from the status of being a worker. In any event, the directive, which expressly seeks to facilitate the exercise of the rights of an EU citizen to move and reside freely within the territory of the Member States, cannot, by itself, limit the scope of the concept of worker within the meaning of the TFEU. It is clear from the case-law of the Court that classification as a worker

³ Article 7(3) of Directive 2004/38.

¹ 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 (OJ 2004 L 158, p. 77, and corrigenda OJ 2004 L 229, p. 35, and OJ 2005 L 197, p. 34).

² Directive 2004/38, cited in footnote 1, and Article 45 TFEU.

within the meaning of the TFEU, and the rights deriving from such status, do not necessarily depend on the actual or continuing existence of an employment relationship.⁴

In those circumstances, the fact that the physical constraints of the late stages of pregnancy and the immediate aftermath of childbirth require a woman to give up work during the period needed for recovery does not, in principle, deprive her of the status of 'worker'. The fact that she was not actually available on the employment market of the host Member State for a few months does not mean that she has ceased to belong to that market during that period, **provided she returns to work or finds another job within a reasonable period after confinement**. Otherwise, an EU citizen would be deterred from exercising their right to freedom of movement if they risked losing their status as workers in the host Member State.

The Court holds that, in order to determine whether the period that has elapsed between childbirth and starting work again may be regarded as reasonable, the national court should take account of all the specific circumstances of the case and the national rules on the duration of maternity leave.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The <u>full text</u> of the judgment is published on the CURIA website on the day of delivery.

Pictures of the delivery of the judgment are available from "Europe by Satellite" \$\alpha\$ (+32) 2 2964106

_

⁴ See, to that effect Case C-39/86 Lair.