

СЪД НА ЕВРОПЕЙСКИТЕ ОБЩНОСТИ
TRIBUNAL DE JUSTICIA DE LAS COMUNIDADES EUROPEAS
SODNÍ DVŮR EVROPSKÝCH SPOLEČENSTVÍ
DE EUROPÆISKE FÆLLESSKABERS DOMSTOL
GERICHTSHOF DER EUROPÄISCHEN GEMEINSCHAFTEN
EUROOPA ÜHENDUSTE KOHUS
ΔΙΚΑΣΤΗΡΙΟ ΤΩΝ ΕΥΡΩΠΑΪΚΩΝ ΚΟΙΝΟΤΗΤΩΝ
COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES
COUR DE JUSTICE DES COMMUNAUTÉS EUROPÉENNES
CÚIRT BHREITHIÚNAIS NA gCÓMHPHOBAL EORPACH
CORTE DI GIUSTIZIA DELLE COMUNITÀ EUROPEE
EIROPAS KOPIENU TIESA



EUROPOS BENDRIJŲ TEISINGUMO TEISMAS
AZ EURÓPAI KÖZÖSSÉGEK BÍRÓSÁGA
IL-QORTI TAL-ĠUSTIZZJA TAL-KOMUNITAJIET EWROPEJ
HOF VAN JUSTITIE VAN DE EUROPESE GEMEENSCHAPPEN
TRYBUNAŁ SPRAWIEDLIWOŚCI WSPÓLNOT EUROPEJSKICH
TRIBUNAL DE JUSTIÇA DAS COMUNIDADES EUROPEIAS
CURTEA DE JUSTIȚIE A COMUNITĂȚILOR EUROPENE
SÚDNY DVOR EURÓPSKÝCH SPOLOČENSTEV
SODIŠČE EVROPSKIH SKUPNOSTI
EUROOPAN YHTEISÖJEN TUOMIOISTUIN
EUROPEISKA GEMENSKAPERNAS DOMSTOL

Press and Information

PRESS RELEASE No 34/09

23 April 2009

Judgment of the Court of Justice in Case C-544/07

Uwe Rüffler v Dyrektor Izby Skarbowej we Wrocławiu Ośrodek Zamiejscowy w Wałbrzychu

**COMMUNITY LAW PRECLUDES THE REFUSAL TO REDUCE INCOME TAX BY
THE AMOUNT OF HEALTH INSURANCE CONTRIBUTIONS PAID IN ANOTHER
MEMBER STATE**

The limitation, such as that provided for by Polish legislation, of the right to a reduction constitutes a restriction on the freedom of movement and residence which cannot be objectively justified

Under Polish legislation, only health insurance contributions paid to a Polish insurance institution can be deducted from income tax.

After living in Germany, where he was employed, Mr Rüffler took up residence in Poland and has, since 2005, been permanently resident there as a retired person. At the time when the dispute arose, Mr Rüffler's only income came from two pensions paid in Germany: an invalidity pension, taxed in Germany, and an occupational pension paid by the Volkswagen company, which was taxed in Poland.

During 2006, Mr Rüffler applied to the Polish tax authorities for the income tax to which he is liable in Poland on his occupational pension received in Germany to be reduced by the amount of the health insurance contributions which he has paid in Germany.

When his application was rejected, Mr Rüffler brought an action before the Wojewódzki Sąd Administracyjny we Wrocławiu (Regional Administrative Court, Wrocław), which has asked the Court of Justice whether the limitation of the right to a reduction of tax is compatible with Community law.

The Court notes first of all that persons who, after retirement, leave the Member State of which they are nationals and in which they have carried out all their occupational activity in order to take up residence in another Member State are exercising the right which the EC Treaty confers on every citizen of the European Union to move and reside freely within the territory of the Member States.

The Court states, next, that the opportunities which the Treaty offers in relation to movement could not be fully effective if it were possible for a national of a Member State to be deterred

from availing himself of them by obstacles placed in the way of his stay in the host Member State by national legislation penalising the fact that he has availed himself of those opportunities.

The Court finds that rules such as those provided for under Polish law introduce a difference in the treatment of resident taxpayers according to whether health insurance contributions capable of being deducted from the amount of income tax due in Poland have or have not been paid under a national compulsory health insurance scheme. Under those rules, only taxpayers whose health insurance contributions are paid in the Member State of taxation benefit from the right to a reduction of income tax.

The Court points out that resident taxpayers paying contributions to the Polish health insurance scheme and those coming under a compulsory health insurance scheme of another Member State are in objectively comparable situations as regards taxation principles since, in Poland, both are subject to an unlimited liability to tax.

Thus, the taxation of their income in that Member State should be carried out in accordance with the same principles and, consequently, on the basis of the same tax advantages, including the right to a reduction of income tax.

To the extent to which it makes the granting of a tax advantage in connection with health insurance contributions conditional on the payment of those contributions to a Polish health insurance body and results in that advantage being refused to taxpayers who have paid contributions to the body of another Member State, the national legislation at issue places at a disadvantage taxpayers who, like Mr R ffler, have exercised their freedom of movement by leaving the Member State in which they have carried out all their occupational activity in order to take up residence in Poland.

The Court is of the view that a limitation of the right to a reduction of income tax, such as that provided for under Polish law, constitutes a restriction on the freedom of movement and residence in the territory of the Member States which is not objectively justified.

The fact, first, that the German compulsory insurance institution covers only the costs of benefits actually provided to Mr R ffler and, second, that it is only when Mr R ffler is in receipt of healthcare benefits that his contributions contribute to the Polish health insurance scheme, is irrelevant in that regard.

The Court points out that the fact that the costs of the healthcare benefits provided to German nationals resident in Poland are reimbursed to the Polish National Health Fund by the competent German insurance institution results from the application of the Community rules relating to the coordination of social security schemes.¹

It also notes that the fact that, since they are under an obligation to comply with the provisions of Community law in force, Member States are not entitled to determine the extent to which their own legislation or that of another Member State is applicable, precludes a Member State from using tax measures in reality to make up for the fact that a taxpayer is not insured with, and does not pay contributions to, its social security scheme.

¹ Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996 (OJ 1997 L 28, p. 1).

The Court concludes that a Member State cannot treat less favourably the residence and taxation of resident taxpayers who, in reliance on the Community rules governing the coordination of social security schemes, pay contributions to a social insurance scheme of another Member State.

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

Languages available: BG CS FR DE EN ES EL IT NL PL RO SK SL

The full text of the judgment may be found on the Court's internet site

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-544/07>

It can usually be consulted after midday (CET) on the day judgment is delivered.

For further information, please contact Christopher Fretwell

Tel: (00352) 4303 3355 Fax: (00352) 4303 2731