



Press and Information

Court of Justice of the European Union

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Judgments in Cases C-361/13 and C-433/13
Commission v Slovakia

By limiting entitlement to disability benefits and the Christmas bonus for persons on a low income to Slovak residents, Slovakia has not failed to fulfil its obligations under an EU regulation

First, the benefits at issue do not fall within the scope of the regulation on the coordination of social security systems which prohibits, in principle, discrimination against the recipients of social benefits on the basis of their State of residence and, second, the Commission has failed to establish that the Christmas bonus is covered by it.

The regulation on the coordination of social security systems in the Member States of the EU¹ prohibits, in principle, discrimination on the basis of State of residence against recipients of cash benefits falling within its scope. The regulation applies in particular to old-age and sickness benefits.

In Slovakia, the recipients of certain social benefits receive a Christmas bonus from the social insurance, provided that they are resident in Slovakia and that the amount of those benefits does not exceed 60% of the average monthly salary in Slovakia. Those benefits include, in particular, the old-age pension, the early old-age pension, invalidity pension, social pension, widow/widower's pension and orphan's pension.² The maximum amount of the Christmas bonus is €66.39.

Furthermore, severely disabled people may receive a personal assistance allowance or an allowance to offset the costs related to their specific needs. Those allowances, which are intended to offset the social consequences of the disability suffered by them, are also subject to the condition that the recipient is domiciled in Slovakia. Finally, a care allowance may be granted to persons caring for disabled people if those various persons all reside in Slovakia.

Taking the view that the three benefits mentioned and the Christmas bonus constitute sickness and old-age benefits respectively, the payment of which cannot be made subject to the residence of the beneficiary, the Commission brought two actions before the Court of Justice for failure to fulfil obligations against Slovakia.

Case C-433/13

In today's judgment, the Court recalls, first of all, that a social security benefit falls within the scope of the regulation if it is granted on the basis of objective criteria which, if satisfied, give entitlement to it, **without the competent authority being able to take the claimant's other personal circumstances into consideration.**

Furthermore, the benefit at issue must relate to one of the risks expressly listed in the regulation, such as old age or sickness.

Next, the Court finds that the three benefits concerned may be granted as compensation for the extra costs or care following a medico-social examination, where a severely disabled person is declared dependent on personal assistance compensation for extra costs or care.

¹ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1 and Corrigendum OJ 2004 L 200, p. 1.)

² In certain cases, the rules on the Christmas bonus also apply to military and police insurance benefits.

Thus, the aim of the Slovak legislation is to grant severely disabled persons the most appropriate benefit for their needs. In that connection, the Court observes that the Slovak authorities have discretion when granting the benefits concerned, so that those benefits are granted following an individual and discretionary assessment of the claimants' individual needs. Consequently, **those benefits cannot be classified as social security benefits within the meaning of the regulation.**

Case C-361/13

By today's judgment, the Court holds that the grant of the Christmas bonus is subject to specific and objective conditions which do not confer any margin of discretion on the competent authorities as regards the claimant's personal needs.

As regards the question whether that bonus is an old-age benefit covered by the regulation, the Court points out that such a benefit is intended to safeguard the means of subsistence of persons who, when they reach a certain age, leave their employment and are no longer required to hold themselves available for work at the employment office. The Court recalls that old-age benefits include supplementary allowances paid exclusively to recipients of a retirement and/or survival pension, financed by the same resources that are used to finance those pensions and which supplement them.

In that context, the Court finds that **the Christmas bonus is not paid exclusively to recipients of old-age pensions**, early old-age pensions or military and police retirement pensions. The group of recipients may also include recipients of other type of pensions, in particular, invalidity pensions, social pensions, widow/widower's pensions or orphan's pensions.

Thus, the Court concludes that, although it supplements the means of subsistence of persons who have reached a certain age, the Christmas bonus is also intended to alleviate the difficult social situation of other persons on low incomes. In the light of that, **the Court rules that the Commission has failed to establish that the Christmas bonus is an old-age benefit and on that ground falls within the scope of the regulation.**

In those circumstances, **the Court dismisses the Commission's two actions.**

NOTE: An action for failure to fulfil obligations directed against a Member State which has failed to comply with its obligations under European Union law may be brought by the Commission or by another Member State. If the Court of Justice finds that there has been a failure to fulfil obligations, the Member State concerned must comply with the Court's judgment without delay.

Where the Commission considers that the Member State has not complied with the judgment, it may bring a further action seeking financial penalties. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice can, on a proposal from the Commission, impose penalties at the stage of the initial judgment.

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The full texts [C-361/13](#) and [C-433/13](#) of the judgments are published on the CURIA website on the day of delivery.

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