



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 11/19

Luxembourg, 7 February 2019

Judgment in Case C-322/17
Eugen Bogatu v Minister for Social Protection

Under EU law it is not necessary that a person pursue an activity as an employed person in a Member State in order to be entitled to family benefits in respect of his children living in another Member State

Further, that entitlement to family benefits is not limited to cases where the claimant was previously in receipt of a contributory benefit

In January 2009, Mr Eugen Bogatu, a Romanian national living in Ireland since 2003, submitted a claim to the Irish authorities for family benefits in respect of his two children living in Romania.

Mr Bogatu pursued an activity as an employed person in Ireland between 2003 and 2009. After losing his job in 2009, he received a contributory unemployment benefit (2009-2010), then a non-contributory unemployment benefit (April 2010-January 2013) and finally a sickness benefit (2013-2015).

The Irish authorities notified Mr Bogatu of their decision to approve his claim for family benefits except with regard to the period from April 2010 to January 2013. That refusal was based on the fact that, in their opinion, during that period the claimant did not fulfil any of the conditions needing to be satisfied in order to be entitled to family benefits for his children living in Romania, since he was neither pursuing an activity as an employed person in Ireland nor receiving a contributory benefit there. Mr Bogatu challenged that decision, arguing that the Irish authorities had relied on a misinterpretation of EU law.

The High Court (Ireland), hearing the case, has asked the Court of Justice whether the Regulation on the coordination of social security systems¹ must be interpreted as meaning that in order for a person whose children are living in another Member State to be eligible to receive family benefits in the Member State where that person lives, he or she must pursue an activity as an employed person in the latter Member State or must be in receipt of cash benefits from that Member State because or as a consequence of such activity.

In today's judgment, the Court finds, in the first place, that the Regulation states that a person is to be entitled to family benefits in accordance with the legislation of the competent Member State, including for his/her family members residing in another Member State, as if they were residing in the former Member State. It therefore does not require such a person to have a specific status, in particular that of employed person, in order to be entitled to receive family benefits.

Further, the Court finds that it is apparent from the context and the objective of the Regulation that family benefits in respect of children living in another Member State may be payable on a number of bases and not solely on the basis of activity as an employed person.

Finally, the Court points out that the Regulation is the result of legislative development reflecting, in particular, the intention of the EU legislature to extend the entitlement to family benefits to other categories of person aside from employed persons.

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) ('the Regulation').

In the second place, the Court finds that the Regulation does not make an entitlement to family benefits in respect of children living in another Member State dependent on the claimant receiving cash benefits because or as a consequence of activity as an employed person.

Therefore, the Court concludes that **in order to be eligible to receive family benefits in the competent Member State in respect of children living in another Member State, it is not necessary for a person either to pursue an activity as an employed person in the former Member State or to be in receipt of cash benefits from that Member State because or as a consequence of such activity.**

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 [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355