



Welfare contributions aimed at funding social security benefits in France cannot be charged on income from the assets of French residents insured under the Swiss social security scheme

Mr and Mrs Raymond Dreyer are French tax residents insured under the Swiss social security scheme, since Mr Dreyer spent his career working in Switzerland. In 2016, the French tax authorities declared Mr and Mrs Dreyer subject, in respect of income from assets received in France in 2015, to contributions and levies apportioned, in particular, to the Caisse nationale de solidarité pour l'autonomie (National Solidarity Fund for Independent Living, 'the CNA').

On the basis that the benefits funded by the contributions and levies at issue administered by that body are social security contributions, Mr and Mrs Dreyer disputed their liability to those contributions and levies before the French courts on the ground that they are already insured under the Swiss social security scheme and cannot be required to contribute to the funding of the French social security scheme. The EU regulation on the coordination of social security systems¹ provides that persons to whom that regulation applies are to be subject to the legislation of a single Member State only and, for those purposes, Switzerland is regarded as a Member State.

In the action brought by Mr and Mrs Dreyer against the French tax authorities, the Cour administrative d'appel de Nancy (Administrative Court of Appeal, Nancy, France) expressed doubts as to the nature of the benefits funded by the contributions and levies apportioned to the CNA. That court therefore asks the Court of Justice whether those benefits, namely the allocation personnalisée d'autonomie (personal independence allowance, 'the APA') and the prestation compensatoire du handicap (disability compensation allowance, 'the PCH'), may be regarded as social security benefits.

In today's judgment, the Court notes that a benefit may be regarded as a 'social security benefit' in so far as it is granted to recipients without any individual and discretionary assessment of personal needs on the basis of a legally defined position (first condition) and provided that it relates to one of the risks mentioned in the regulation at issue (second condition).

The Court also notes that taking into account a recipient's resources for the sole purpose of calculating the actual amount of benefits on the basis of legally defined, objective criteria does not involve an individual assessment of the recipient's personal needs. The Court considers that to be the case of the APA and the PCH, given that a recipient's resources are taken into account only in calculating the amount of those benefits, since the benefits must be granted if the applicant satisfies the conditions for their eligibility, irrespective of his resources.

In that context, the Court adds that the need to assess, for the purposes of the APA and of the PCH, the degree of the applicant's loss of independence or disability also does not involve an individual assessment of that applicant's personal needs. The assessments of loss of independence and of the disability are made by a doctor or an expert from a socio-medical team or

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).

a multidisciplinary team as regards predefined scales, lists and guidelines, namely on the basis of legally defined, objective criteria which, if satisfied, confer entitlement to the corresponding benefit.

Lastly, the Court considers that, **since it follows both from today's judgment and from the findings of the referring court that both conditions are satisfied and that the APA and the PCH are 'social security contributions', there is no need to ascertain whether either of the benefits are 'special non-contributory cash benefits' within the meaning of that regulation, since the Court has previously held that both concepts are mutually exclusive.**

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.

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

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