



Press and Information

Court of Justice of the European Union

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Judgment in Case C-447/18

UB v Generálny riaditeľ Sociálnej poisťovne Bratislava

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**National legislation which restricts the grant of a benefit introduced for top-level sportspersons to citizens of the Member State concerned is an impediment to freedom of movement for workers**

In the judgment in *Generálny riaditeľ Sociálnej poisťovne Bratislava* (C-447/18), delivered on 18 December 2019, the Court held that Article 7(2) of Regulation No 492/2011 on freedom of movement for workers,<sup>1</sup> which provides that a worker who is a national of one Member State is to enjoy, in the territory of another Member State, the same social advantages as national workers, precludes legislation of a Member State which makes receipt of an additional benefit paid to certain high-level sportspersons who have represented that Member State or its legal predecessors in international sporting competitions conditional upon the person applying for the benefit having the nationality of that Member State.

In the present case, a Czech national (having chosen that nationality upon the dissolution of the Czech and Slovak Federative Republic), who is resident in the territory which is now Slovakia and who had obtained gold and silver medals in the Ice Hockey European and World Championships respectively as a member of the national team of the Czechoslovak Socialist Republic, was refused an additional benefit introduced for certain high-level sportspersons who have represented Slovakia, because he did not have Slovak nationality. In addition, at the time of the accession of the Slovak Republic and the Czech Republic to the EU, the person concerned was employed in a primary school and continued in that post following that accession.

First of all, the Court found that the additional benefit in question falls outside the scope of Regulation No 883/2004 on the coordination of social security systems.<sup>2</sup> According to the Court, the additional benefit is not covered by the 'old-age benefit' referred to in Article 3(1) of Regulation No 883/2004, which determines the branches of social security to which that regulation applies. The Court noted, in that regard, that the essential purpose of the additional benefit is to compensate its recipients for the feats they have accomplished while representing their country in the field of sport, which accounts for the fact that, first, that benefit is financed directly by the State, not using the national social security sources of financing and regardless of the contributions paid by its recipients, and, second, it is paid only to a very limited number of sportspersons. It also added that payment of the additional benefit is not conditional upon the right of the recipient to receive a retirement pension, but only upon an application to that effect being made by that recipient.

Next, having explained that the worker concerned, without having moved from his place of residence, is, because of the accession to the EU of the State of which he is a national and the State in whose territory he is resident, in the same situation as a migrant worker, the Court held that the additional benefit at issue in the present case is covered by the concept of a 'social advantage' for the purposes of Article 7(2) of Regulation No 492/2011. Against that background, it

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<sup>1</sup>Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (OJ 2011 L 141, p. 1). Article 7(2) of that regulation is the particular expression, in the specific area of the grant of social advantages, of the principle of equal treatment enshrined in Article 45(2) TFEU.

<sup>2</sup>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, corrigendum OJ 2004 L 200, p. 1).

found that the possibility of a migrant worker being compensated in the same way as workers who are nationals of the host Member State for exceptional sporting results which he or she has obtained while representing that Member State or its legal predecessors may contribute to the integration of that worker into that Member State and thus to achieving the objective of freedom of movement for workers. The Court emphasised that the additional benefit at issue in the main proceedings has the effect not only of providing its recipients with financial security intended, *inter alia*, to compensate for the fact that they were unable to fully integrate into the labour market during the years dedicated to practising a sport at a high level, but also, chiefly, of conferring on those recipients a particular level of social prestige because of the sporting results which they obtained in the context of that representation.

Consequently, the Court found that a Member State which grants such a benefit to its national workers cannot refuse to grant it to workers who are nationals of other Member States without discriminating on the basis of nationality.

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**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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