



PRESS RELEASE No 33/24

Luxembourg, 22 February 2024

Judgment of the Court in Case C-283/21 | Deutsche Rentenversicherung Bund

Taking into account of child-raising periods completed in another Member State when calculating a pension for total incapacity for work

The right of free movement of EU citizens may have the effect that child-raising periods completed in another Member State must be taken into account when calculating a pension for total incapacity for work

A German citizen who lived in the Netherlands and now resides in Germany receives a pension for total incapacity for work there. She is challenging, before the German courts, the failure to take account of the periods in which she raised her two children, which she completed in the Netherlands, in the calculation of that pension.

The court hearing the dispute asked the Court of Justice whether the failure to take account of child-raising periods completed in another Member State is compatible with EU law.

The Court finds, first of all, that the person concerned does not fulfil the conditions set out in the EU legislation on the coordination of national security systems¹ in order for those periods to be taken into account. She did not pursue an activity as an employed or self-employed person in Germany either before or on the date on which she began to raise her children. However, both before and after those child-raising periods, the person concerned completed periods of insurance, as a result of periods of training or professional activity.

Moreover, the Court notes that Germany is the only Member State which is competent for the purposes of granting the pension in question. She is not entitled to such a pension in the Netherlands, since she has never worked there. Thus, the periods at issue cannot be taken into account there.

In such a situation², it follows from the right of EU citizens to move and reside freely within the territory of the Member States³ that the Member State responsible for payment of the pension for total incapacity for work (in this case, Germany) must take into account the child-raising periods completed in another Member State (in this case, the Netherlands).

In the situation at issue, there is a **sufficient link** between the **child-raising periods** and **the periods of insurance completed by the person concerned** as a result of the pursuit of an occupational activity in the Member State responsible for payment of the pension. The fact that the person concerned did not pay contributions in that Member State during certain periods treated, by its national legislation, as such periods of insurance and, in particular, neither before nor immediately after the child-raising periods, cannot rule out the existence of that link.

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 EU law or the validity of an EU 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 and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on "[Europe by Satellite](#)" ☎ (+32) 2 2964106.

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¹ More specifically, Article 44(2) of [Regulation \(EC\) No 987/2009](#) of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems. The Court notes that that article does not govern exclusively the taking into account of child-raising periods abroad.

² As regards the present case, it is for the German court to verify whether the dispute before it indeed concerns such a situation.

³ Guaranteed by [Article 21 of the Treaty on the Functioning of the European Union](#).