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## ECJ 5 March 2020, case C-135/19 (Pensionsversicherungsanstalt Prestation pour la rééducation), Social insurance

Pensionsversicherungsanstalt – v – CW, Austrian case

### Summary

Austrian rehabilitation allowance qualifies as a sickness benefit within the meaning of Article 3(1)(a) of Regulation No 883/2004. Denial of that benefit found possible.

### Question

1. Is a benefit such as the rehabilitation allowance at issue in the main proceedings a sickness benefit, an invalidity benefit or an unemployment benefit, within the meaning of Article 3(1)(a), (c) and (h) of Regulation No 883/2004?
2. Must Regulation No 883/2004 be interpreted as precluding a situation, such as that at issue in the main proceedings, in which a person who has ceased to be insured under the social security system of his or her Member State of origin after ceasing to be employed there and moving his or her place of residence to another Member State, where he or she worked and completed the majority of his or her periods of insurance, is refused a benefit such as the rehabilitation allowance at issue in the main proceedings by the competent institution of his or her Member State of origin?

### Ruling

1. A benefit such as the rehabilitation allowance at issue in the main proceedings is a sickness benefit, within the meaning of Article 3(1)(a) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, as amended by Regula-

tion (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012.

2. Regulation No 883/2004, as amended by Regulation No 465/2012, must be interpreted as not precluding a situation in which a person who has ceased to be insured under the social security system of his or her Member State of origin after ceasing to be employed there and moving his or her place of residence to another Member State, where he or she worked and completed the majority of his or her periods of insurance, is refused a benefit such as the rehabilitation allowance at issue in the main proceedings by the competent institution of his or her Member State of origin, since that person is subject not to the legislation of the State of origin but to that of the Member State in which his or her place of residence is situated.

## ECJ 12 March 2020, case C-769/18) (Caisse d'assurance retraite and de la santé au travail d'Alsace-Moselle), Social insurance

Caisse d'assurance retraite et de la santé au travail d'Alsace-Moselle – v – SJ, Ministre chargé de la Sécurité sociale, French/German case

### Summary

The assistance for integration of mentally disabled children and young people, provided for in the German Social Code does not constitute a benefit within the meaning of Article 3 of Regulation 883/2004 and therefore falls outside its material scope. Moreover, Article 5 precludes that the German provision at issue and the child-rearing allowance for a disabled child provided for in the French Social Security Code cannot be considered issues of an equivalent nature for the purpose of Article 5(a). The principle of equal treatment of facts enshrined in Article 5(b) applies, so that the French authorities must take into account similar facts occurring in Germany as though they had taken place on their own territory.

### Question

1. Must Article 3 of Regulation No 883/2004 be interpreted as meaning that the German assistance con-

stitutes a benefit within the meaning of Article 3 and accordingly falls within the material scope of that regulation.

2. If the answer to the first question is in the affirmative, must Article 5(a) of Regulation No 883/2004 be interpreted as meaning that the French allowance and the German assistance may be considered to be equivalent benefits, within the meaning of that provision.

## Ruling

1. Article 3 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, as amended by Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009, must be interpreted as meaning that the assistance for integration of mentally disabled children and young people, provided for in Paragraph 35a of Book VIII, of the Sozialgesetzbuch (German Social Code), does not constitute a benefit within the meaning of Article 3 and, therefore, does not fall within the material scope of that regulation.
2. Article 5 of Regulation No 883/2004, as amended by Regulation No 988/2009, must be interpreted as meaning that:
  - 2a. the child-rearing allowance for a disabled child, provided for in Article L. 541-1 of the Code de la sécurité sociale (French Social Security Code), and the assistance for integration of mentally disabled children and young people, provided for in Paragraph 35a of Book VIII of the German Social Code, cannot be considered to be benefits of an equivalent nature, for the purposes of Article 5(a);
  - 2b. the principle of equal treatment of facts enshrined in Article 5(b) applies in circumstances such as those at issue in the main proceedings. It is therefore for the competent French authorities to ascertain whether, in the present case, it is established that the fact required for the purposes of that provision has occurred. In that connection, those authorities must take into account similar facts occurring in Germany as though they had taken place on their own territory.

## ECJ 19 March 2020, joined cases C-103/18 and C-429/18 (Sánchez Ruiz and Fernández Álvarez and Others – v – Comunidad de Madrid), Fixed-term work

Domingo Sánchez Ruiz; Berta Fernández Álvarez and others – v – Comunidad de Madrid (Servicio Madrileño de Salud), Spanish case

### Summary

Clause 5 of the Framework Agreement on fixed-term work applies also to workers who continuously occupy interim posts based on successive fixed-term contracts in the absence of a recruitment procedure.

No English translation of the case has been made available yet, but the ECJ's summary in English can be found here: [https://curia.europa.eu/jcms/jcms/p1\\_2934265/en/](https://curia.europa.eu/jcms/jcms/p1_2934265/en/)

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## ECtHR 5 November 2019, Application no. 11608/15 (Herbai), Freedom of expression

Csaba Herbai – v – Hungary

### Summary

A summary of the case is available on the ECtHR's website: [https://hudoc.echr.coe.int/app/conversion/pdf?](https://hudoc.echr.coe.int/app/conversion/pdf?library=ECHR&id=003-6553318-8668067&filename=Judgment%20Herbai%20v.%20Hungary%20-%20personnel%20officer%20dismissed%20by%20employer%20for%20Internet%20articles.pdf)

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