

Reference for a preliminary ruling from the High Court (Ireland) made on 4 January 2021 — FS v Chief Appeals Officer, Social Welfare Appeals Office, Minister for Employment affairs, Minister for Social Protection

(Case C-3/21)

(2021/C 138/23)

Language of the case: English

Referring court

High Court (Ireland)

Parties to the main proceedings

Applicant: FS

Defendants: Chief Appeals Officer, Social Welfare Appeals Office, Minister for Employment Affairs, Minister for Social Protection

Questions referred

1. does the concept of ‘claim’ in art. 81 of regulation 883/2004⁽¹⁾ include the ongoing state of being in receipt of a periodic benefit from a first Member State (where the benefit is correctly payable by a second Member State) on each and every occasion on which such benefit is paid, even after the original application and the original decision by the first Member State to grant the benefit;
2. if the answer to the first question is yes, then in circumstances where a claim for social security is made incorrectly to a Member State of origin, when it should have been made to a second Member State, is the obligation of the second Member State pursuant to art. 81 of regulation 883/2004 (specifically, the obligation to treat a claim to the Member State of origin as being admissible in the second Member State) to be interpreted as being entirely independent of the applicant’s obligation to give correct information regarding her place of residence pursuant to art. 76(4) of regulation 883/2004, such that a claim made incorrectly to the Member State of origin must be accepted as admissible by the second Member State for the purposes of art. 81, notwithstanding the failure of the applicant to provide correct information as to her place of residence in accordance with art. 76(4), within the period for making a claim prescribed by the law of the second Member State;
3. whether the general EU law principle of effectiveness has the consequence that access to EU law rights is rendered ineffective in circumstances such as those in the present proceedings (in particular, in circumstances where the EU national exercising free movement rights is in breach of her obligation under art. 76(4) to notify the social welfare authorities of the Member State of origin of her change of country of residence) by a requirement of national law in the Member State in which the right of free movement is exercised that in order to obtain a backdating of claims for child benefit an EU national must apply for such a benefit in the second Member State within a period of twelve months prescribed by the domestic law of the latter Member State.

⁽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).

Reference for a preliminary ruling from Supreme Court (Ireland) made on 14 January 2021 — SRS, AA v Minister for Justice and Equality

(Case C-22/21)

(2021/C 138/24)

Language of the case: English

Referring court

Supreme Court

Parties to the main proceedings

Applicants: SRS, AA

Defendant: Minister for Justice and Equality

Questions referred

1. Can the term member of the household of an EU citizen, as used in Article 3 of Directive 2004/38/EC ⁽¹⁾, be defined so as to be of universal application throughout the EU and if so what is that definition?
2. If that term cannot be defined, by what criteria are judges to look at evidence so that national courts may decide according to a settled list of factors who is or who is not a member of the household of an EU citizen for the purpose of freedom of movement?

⁽¹⁾ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004, L 158, p. 77).

Request for a preliminary ruling from the Sofiyski gradski sad (Bulgaria) lodged on 4 February 2021 — Criminal proceedings against KT

(Case C-71/21)

(2021/C 138/25)

Language of the case: Bulgarian

Referring court

Sofiyski gradski sad

Requested person

KT

Questions referred

1. Do the provisions of Article 1(2) and (3) of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway allow the issue of a new arrest warrant for the purposes of criminal prosecution in the same case against a person whose surrender has been refused by a Member State of the European Union on the basis of Article 1(3) of that agreement, read in conjunction with Article 6 of the Treaty on European Union and Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms?
2. Do the provisions of Article 1(3) of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway, as well as those of Articles 21(1) and 67(1) of the Treaty on the Functioning of the European Union and those of Articles 6 and 45(1) of the Charter of Fundamental Rights of the European Union, allow a Member State, to which an arrest warrant is addressed, to rule again in the case in which another Member State refused to surrender the same person for the purposes of criminal prosecution in the same case, after the requested person has exercised his or her right of free movement and moved from the State in which surrender had been refused to the State to which the new arrest warrant is addressed?