

Case 94/84

Office national de l'emploi

v

Joszeŕ Deak

(Reference for a preliminary ruling
from the Cour du travail, Liège)

'Social security — Unemployment benefits —
Members of a worker's family'

Summary

- Social security for migrant workers — Community rules — Persons covered — Members of a worker's family — Dependent children — Unemployment benefits for young job-seekers — Regulation (EEC) No 1408/71 — Inapplicable
(Regulation (EEC) No 1408/71 of the Council, Art. 2 (1) and Art. 3 (1))*
 - Freedom of movement for persons — Workers — Equal treatment — Social advantages — Concept — Unemployment benefits for young job-seekers — Grant to children of a worker who is a national of another Member State — Child having nationality of a non-member country
(Regulation (EEC) No 1612/68 of the Council, Art. 7 (2))*
1. A national of a non-member country who is a member of the family of a worker who is a national of a Member State cannot rely on Regulation No 1408/71, and in particular Article 2 (1) and Article 3 (1) thereof, in order to claim unemployment benefits granted, under the legislation of the Member State in whose territory that worker is employed, to young persons seeking employment, when they are granted on the basis of the beneficiary's own situation and not by reason of the fact that he is a member of a worker's family.
 2. The term 'social advantage' used in Article 7 (2) of Regulation No 1612/68 refers to all advantages which, whether or not linked to a contract of employment, are generally granted to national workers primarily because of

their objective status as workers or by virtue of the mere fact of their residence on the national territory and whose extension to workers who are nationals of other Member States therefore seems likely to facilitate the mobility of such workers within the Community.

Unemployment benefits provided under the legislation of a Member State for

young persons seeking work constitute a social advantage within the meaning of Article 7 (2) of Regulation No 1612/68. A Member State cannot refuse to grant such benefits to the dependent children of a worker who is a national of another Member State on the grounds of the children's nationality, whether they are nationals of a Member State or of a non-member country.

OPINION OF ADVOCATE GENERAL
VERLOREN VAN THEMAAT
delivered on 7 March 1985 *

*Mr President,
Members of the Court,*

1. Introduction

1.1. *The problem*

This case concerns the rather unusual question whether Mr Deak, a Hungarian national who lives in Belgium with his Italian mother, can on the basis of Community law claim Belgian unemployment benefit. The difficulty of assessing the potential practical scope of that question does not simplify matters.

The two questions concerning that problem referred by the national court are based on Article 2 (1) of Council Regulation (EEC) No 1408/71.

As the Court pointed out in its written questions of 26 October 1984 to the Belgian

Office national de l'emploi and to the Commission, Article 7 (2) of Regulation (EEC) No 1612/68 may also be relevant to the problem. In those questions the Court referred to the judgments of 31 May 1979 in Case 207/78 (*Even* [1979] ECR 2019), 14 January 1982 in Case 65/81 (*Reina* [1982] ECR 33) and 12 July 1984 in Case 261/83 (*Castelli* [1984] ECR 3199) regarding that provision. I shall come back later to a number of other relevant judgments.

1.2. *The questions referred*

The questions which the Cour du travail, Liège, has referred to the Court are the following:

- I. Does Article 2 (1) of Regulation (EEC) No 1408/71 mean that the Belgian laws on unemployment are applicable to a

* Translated from the Dutch.