



Reports of Cases

Case C-255/13

I

v

Health Service Executive

(Request for a preliminary ruling from the High Court (Ireland))

(Reference for a preliminary ruling — Social security — Regulation (EC) No 883/2004 — Articles 19(1) and 20(1) and (2) — Regulation (EC) No 987/2009 — Article 11 — National of a Member State insured in his State of residence — Sudden serious illness occurring while on holiday in another Member State — Person compelled to remain in that second Member State for 11 years as a result of his illness and the fact that specialist medical care is available close to the place where he lives — Provision of benefits in kind in the second Member State — Definition of ‘residence’ and ‘stay’)

Summary — Judgment of the Court (Fourth Chamber), 5 June 2014

1. *Social security — Migrant workers — A person having simultaneously two habitual places of residence in two different Member States — Not permissible — Rule consistent with the purposes of the application of Regulation No 883/2004*

(European Parliament and Council Regulation No 883/2004; Council Regulation No 1408/71)

2. *Social security — Migrant workers — Sickness insurance — Benefits in kind provided in another Member State — Concept of the ‘residence’ of the person concerned — Criteria for assessment*

(European Parliament and Council Regulations No 883/2004, Art. 1(j), and No 987/2009, Art. 11(1) and (2))

3. *Social security — Migrant workers — Sickness insurance — Benefits in kind provided in another Member State — Legislation applicable — Residence — Definition*

(Council Regulation No 1408/71)

4. *Social security — Migrant workers — Sickness insurance — Member State national struck down by a serious illness in a Member State other than his state of residence — Benefits in kind provided in the Member State in which he is staying — Long-term provision of benefits on account of the illness of the person concerned — Concept of ‘residence’ and ‘stay’ — Determination of the habitual centre of interests of a Member State national — Determination by the national court — Limits*

(European Parliament and Council Regulation No 883/2004, Arts 1(j) and (k), 19(1) and 20(1) and (2))

1. See the text of the decision

(see paras 40-42, 47)

2. According to Article 1(j) of Regulation No 883/2004 on the coordination of social security systems, the term ‘residence’ refers to the place where a person habitually resides.

For the purpose of determining the habitual centre of a person’s interests, the national court must take account of all the relevant criteria, in particular those identified in Article 11(1) of Regulation No 987/2009 laying down the procedure for implementing Regulation No 883/2004, as well as, in accordance with Article 11(2) of that regulation, the intention of the person concerned as to his actual place of residence. That intention must be assessed in the light of the objective facts and circumstances of the case in the main proceedings; a mere declaration of intention to reside in a particular place is not, in itself, sufficient for the purpose of the application of Article 11(2).

The list of factors to be taken into account in determining a person’s place of residence, now codified in Article 11 of Regulation No 987/2009, is not exhaustive and does not establish any order of precedence for the various criteria set out in Article 11(1).

(see paras 43, 46, 54)

3. See the text of the decision.

(see paras 44, 45)

4. Article 1(j) and (k) of Regulation No 883/2004 on the coordination of social security systems must be interpreted as meaning that, for the purpose of Article 19(1) or Article 20(1) and (2) of that regulation, where a European Union national who was resident in one Member State suffers a sudden serious illness while on holiday in a second Member State and is compelled to remain in the latter State for 11 years as a result of that illness and the fact that specialist medical care is available close to the place where he lives, such a person must be regarded as ‘staying’ in the second Member State if the habitual centre of his interests is in the first Member State. It is for the national court to determine the habitual centre of such a person’s interests by carrying out an assessment of all the relevant facts and taking into account that person’s intention, as may be discerned from those facts, the mere fact that that person has remained in the second Member State for a long time not being sufficient in itself alone for him to be regarded as residing in that Member State.

(see para 59, operative part)