Reports of Cases

JUDGMENT OF THE COURT (Second Chamber)

22 February 2024*

(Reference for a preliminary ruling – Social security for migrant workers – Regulation (EC) No 987/2009 – Article 44(2) – Scope – Pension for total incapacity for work – Calculation – Taking into account of child raising-periods completed in another Member State – Applicability – Article 21 TFEU – Free movement of citizens – Sufficient link between those child-raising periods and the periods of insurance completed in the Member State responsible for payment of the pension)

In Case C-283/21,

REQUEST for a preliminary ruling under Article 267 TFEU from the Landessozialgericht Nordrhein-Westfalen (Higher Social Court, North Rhine-Westphalia, Germany), made by decision of 23 April 2021, received at the Court on 4 May 2021, in the proceedings

VA

v

Deutsche Rentenversicherung Bund,

joined party:

RB,

THE COURT (Second Chamber),

composed of A. Prechal, President of the Chamber, K. Lenaerts, President of the Court, acting as Judge of the Second Chamber, F. Biltgen (Rapporteur), J. Passer and M.L. Arastey Sahún, Judges,

Advocate General: N. Emiliou,

Registrar: D. Dittert, Head of Unit,

having regard to the written procedure and further to the hearing on 11 May 2023,

after considering the observations submitted on behalf of:

– the German Government, by J. Möller and R. Kanitz, acting as Agents,

* Language of the case: German.

– the Czech Government, by J. Pavliš, M. Smolek and J. Vláčil, acting as Agents,

– the Netherlands Government, by M.K. Bulterman, J.M. Hoogveld and C.S. Schillemans, acting as Agents,

– the European Commission, by F. Clotuche-Duvieusart, B.-R. Killmann and D. Martin, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 5 October 2023,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of 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 (OJ 2009 L 284, p. 1).

2 The request has been made in the context of a dispute between VA and the Deutsche Rentenversicherung Bund (Federal Pension Insurance Fund, Germany) concerning the taking into account by that body of child-raising periods completed by VA in another Member State for the purposes of calculating the amount of her pension for total incapacity for work.

Legal context

European Union law

Regulation (EC) No 883/2004

3 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, and corrigendum OJ 2004 L 200, p. 1), which entered into force on 20 May 2004, has as its purpose the coordination of national social security systems. In accordance with Article 91 thereof, it is to apply from the date of entry into force of Regulation No 987/2009, which, pursuant to Article 97 of the latter regulation, is 1 May 2010.

4 Recital 1 of Regulation No 883/2004 states:

‘The rules for coordination of national social security systems fall within the framework of free movement of persons and should contribute towards improving their standard of living and conditions of employment.’

5 Article 1(t) of that regulation defines the term ‘period of insurance’ as periods of contribution, employment or self-employment as defined or recognised as periods of insurance by the legislation under which they were completed or considered as completed, and all periods treated as such, where they are regarded by the said legislation as equivalent to periods of insurance.

6 Article 2 of that regulation, entitled 'Persons covered', states, in paragraph 1 thereof:

'This Regulation shall apply to nationals of a Member State, stateless persons and refugees residing in a Member State who are or have been subject to the legislation of one or more Member States, as well as to the members of their families and to their survivors.'

7 Title II of that regulation, entitled 'Determination of the legislation applicable', includes, inter alia, Article 11 thereof, entitled 'General rules', which provides, in paragraphs 1 to 3 thereof:

'1. Persons to whom this Regulation applies shall be subject to the legislation of a single Member State only. Such legislation shall be determined in accordance with this Title.

2. For the purposes of this Title, persons receiving cash benefits because or as a consequence of their activity as an employed or self-employed person shall be considered to be pursuing the said activity. This shall not apply to invalidity, old-age or survivors' pensions or to pensions in respect of accidents at work or occupational diseases or to sickness benefits in cash covering treatment for an unlimited period.

3. Subject to Articles 12 to 16:

(a) a person pursuing an activity as an employed or self-employed person in a Member State shall be subject to the legislation of that Member State;

(b) a civil servant shall be subject to the legislation of the Member State to which the administration employing him/her is subject;

(c) a person receiving unemployment benefits in accordance with Article 65 under the legislation of the Member State of residence shall be subject to the legislation of that Member State;

(d) a person called up or recalled for service in the armed forces or for civilian service in a Member State shall be subject to the legislation of that Member State;

(e) any other person to whom subparagraphs (a) to (d) do not apply shall be subject to the legislation of the Member State of residence, without prejudice to other provisions of this Regulation guaranteeing him/her benefits under the legislation of one or more other Member States.'

8 Under Article 87 of Regulation No 883/2004, entitled 'Transitional provisions':

'1. No rights shall be acquired pursuant to this Regulation for the period before its date of application.

2. Any period of insurance and, where appropriate, any period of employment, self-employment or residence completed under the legislation of a Member State prior to the date of application of this Regulation in the Member State concerned shall be taken into consideration for the determination of rights acquired under this Regulation.

3. Subject to paragraph 1, a right shall be acquired under this Regulation even if it relates to a contingency arising before its date of application in the Member State concerned.

…’

Regulation No 987/2009

9 Regulation No 987/2009 lays down the procedure for implementing Regulation No 883/2004, pursuant to Article 89 of the latter regulation.

10 Article 1(1)(c) of Regulation No 987/2009 provides as follows:

‘For the purposes of this Regulation:

…

(c) the definitions set out in [Regulation No 883/2004] shall apply.’

11 Article 44 of Regulation No 987/2009, entitled ‘Taking into account of child raising-periods’, provides:

‘1. For the purposes of this Article, “child-raising period” refers to any period which is credited under the pension legislation of a Member State or which provides a supplement to a pension explicitly for the reason that a person has raised a child, irrespective of the method used to calculate those periods and whether they accrue during the time of child-raising or are acknowledged retroactively.

2. Where, under the legislation of the Member State which is competent under Title II of [Regulation No 883/2004], no child-raising period is taken into account, the institution of the Member State whose legislation, according to Title II of [Regulation No 883/2004], was applicable to the person concerned on the grounds that he or she was pursuing an activity as an employed or self-employed person at the date when, under that legislation, the child-raising period started to be taken into account for the child concerned, shall remain responsible for taking into account that period as a child-raising period under its own legislation, as if such child-raising took place in its own territory.

3. Paragraph 2 shall not apply if the person concerned is, or becomes, subject to the legislation of another Member State due to the pursuit of an employed or self-employed activity.’

12 Article 93 of Regulation No 987/2009, entitled ‘Transitional provisions’, reads:

‘Article 87 of [Regulation No 883/2004] shall apply to the situations covered by [Regulation No 987/2009].’

German law

13 Paragraph 56 of the Sozialgesetzbuch, Sechstes Buch (VI) – Gesetzliche Rentenversicherung (Book VI of the Social Security Code: statutory pension insurance scheme ('the SGB VI'), as amended by the Law of 28 November 2018 (BGBl. I, p. 2016) ('the SGB VI, as amended in 2018'), is worded as follows:

'(1) A child-raising period shall be the period spent raising a child during the first three years of its life. A child-raising period shall be credited to one of the parents of the child … if:

1. the period spent raising the child is to be attributed to that parent;

2. the child-raising took place in the Federal Republic of Germany or can be treated as having taken place there; and

3. that parent is not barred from being credited with that period.

…

(3) Child-raising shall be deemed to have taken place in the Federal Republic of Germany where the child-raising parent has habitually resided there with the child. A period of child-raising shall be treated as child-raising in the Federal Republic of Germany where the child-raising parent has habitually resided abroad with his or her child and during the period devoted to child-raising or immediately before the birth of the child has completed periods of compulsory contribution by virtue of an activity carried on there as an employed or self-employed person. The same applies in the case of joint residence of spouses or partners abroad, where the spouse or partner of the parent who raised the child has completed such periods of compulsory contribution or has not completed them solely because he or she was one of the persons referred to in Paragraph 5(1) and (4), or was exempt from compulsory insurance.

…

(5) The child-raising period shall start at the end of the month during which the child was born and shall end after 36 calendar months …'

14 Paragraph 57 of SGB VI, as amended by the Law of 21 March 2001 (BGBl. I, p. 403), provides:

'The period devoted to raising a child until the end of the child's 10th year of age shall constitute a period to be taken into consideration for one of the parents if the conditions for attribution of a period of child-raising are also fulfilled during that period. The same applies to periods of self-employment which was not merely marginal, in so far as those periods are also compulsory contribution periods.'

15 Paragraph 249(1) of SGB VI, as amended by the Law of 23 June 2014 (BGBl. I, p. 787) is formulated as follows:

'For a child born before 1 January 1992, the child-raising period shall end 24 calendar months after the end of the month during which the child was born.'

The dispute in the main proceedings and the questions referred for a preliminary ruling

16 The appellant in the main proceedings is a German national born in 1958 in Aachen (Germany).

17 From 1962 to 2010, she lived in Vaals (Netherlands), a town located approximately 5 km away from Aachen. She attended school in that city and, in August 1975, began a nursery teacher training course recognised by the Federal Republic of Germany.

18 On 1 August 1978, the appellant in the main proceedings started a one-year placement in a nursery located in Aachen. In accordance with German legislation, that year should have been regarded as a period of employment in Germany, subject to compulsory insurance. However, because there were not enough paid positions available, the appellant completed her placement without being paid and was, therefore, exempt from such insurance. She therefore paid no contributions to the German statutory pension insurance scheme during that placement period.

19 When her placement ended, the appellant in the main proceedings resumed, as from 1 August 1979, her training as a nursery teacher in Aachen and completed the *Fachhochschulreife* (professional baccalaureate), while continuing to live in the Netherlands. After completing her training in July 1980, she no longer carried out any occupational activity in Germany or the Netherlands.

20 On 15 November 1986 and 2 June 1989, the appellant in the main proceedings gave birth to two children, who were raised in the Netherlands and attended school in Germany. At that time, she had not paid contributions to the German statutory pension insurance scheme.

21 Between September 1993 and August 1995, she pursued an activity as a self-employed person in Germany in respect of which she did not pay contributions to that scheme. Then, between April 1999 and October 2012, she was employed in Germany in a job classified as 'marginal' under German law and not subject to compulsory insurance.

22 The appellant in the main proceedings moved back to Germany in 2010. From October 2012, she was gainfully employed there and, in that context, paid contributions to the German statutory pension insurance scheme.

23 Since March 2018, the appellant in the main proceedings has received a pension for total incapacity for work from the German Federal Pension Insurance Fund, the respondent in the main proceedings. For the purposes of calculating the amount of that pension, the respondent in the main proceedings took the view that, aside from the periods during which the appellant in the main proceedings had contributed to the German statutory pension insurance scheme, namely since 2012, the relevant periods included those during which she had completed vocational training in Germany – that is to say, between August 1975 and July 1978 and between August 1979 and July 1980 – and the period between 1 April and 1 June 1999, during which the appellant in the main proceedings, while raising her children in the Netherlands, had been in paid employment in Germany without being subject to compulsory insurance.

24 The appellant in the main proceedings brought an action before a German court of first instance, claiming that, for the purposes of calculating the amount of her German pension for total incapacity for work, the respondent in the main proceedings had wrongly failed to take into

account, as relevant periods, the child-raising periods which she had completed in the Netherlands between 15 November 1986 and 31 March 1999 without being in gainful employment ('the periods at issue'). Her challenge was unsuccessful.

25 The appellant in the main proceedings brought an appeal against the decision dismissing her action before the Landessozialgericht Nordrhein-Westfalen (Higher Social Court, North Rhine-Westphalia, Germany), the referring court.

26 That court observes that, pursuant to the first sentence of Paragraph 56(3) of SGB VI, as amended in 2018, the periods at issue cannot be taken into account for the purposes of calculating the amount of the pension for total incapacity for work of the appellant in the main proceedings, since her two children were not raised in Germany during those periods. Nor can the periods at issue fall within the scope of the second sentence of Paragraph 56(3) of the SGB VI, as amended in 2018, since, in order for that to be possible, the appellant in the main proceedings would have had to habitually reside abroad with her children and, during or immediately before those periods, to have paid contributions in Germany by virtue of an activity carried out abroad as an employed or self-employed person. In addition, the referring court points out that the conditions laid down in Article 44(2) of Regulation No 987/2009 are not satisfied in the present case since, at the time when her children were born, which occurred during the periods at issue, the appellant in the main proceedings was not employed or self-employed in Germany.

27 However, the referring court is uncertain whether, in the light of the case-law of the Court, in particular the judgment of 19 July 2012, *Reichel-Albert* (C-522/10, EU:C:2012:475), the respondent in the main proceedings must – in view of certain factors which appear to indicate the existence of a 'sufficiently close link' between the periods at issue and the periods of insurance completed in the German pension system – take those periods into account under Article 21 TFEU for the purposes of calculating the amount of the German pension for total incapacity for work of the appellant in the main proceedings.

28 In that regard, first, the referring court notes that the case in the main proceedings differs from that which gave rise to the judgment of 19 July 2012, *Reichel-Albert* (C-522/10, EU:C:2012:475). Before the birth of her children, the appellant in the main proceedings was not subject to compulsory insurance in Germany and had not paid contributions to the German statutory pension insurance scheme. Moreover, at that time she was permanently residing in the Netherlands and had not merely transferred her residence there temporarily, as in the latter case.

29 Secondly, the referring court points out that the entire working life of the appellant in the main proceedings is linked to the Federal Republic of Germany; that she completed all her education there; that it was in that Member State that she completed a one-year probationary period, which would have been subject to compulsory insurance had there not been, at that time, an insufficient number of paid posts available; and that the other years during which she pursued vocational training were taken into account as 'pensionable periods'. In addition, her children were educated in Germany and she and her family took up residence in the Netherlands near the German border.

30 In the light of those elements, the referring court questions whether the fact that the periods at issue are not taken into account under German national law is compatible with EU law.

31 In those circumstances, the Landessozialgericht Nordrhein-Westfalen (Higher Social Court, North Rhine-Westphalia) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Is[,] under the legislation of [the Kingdom of] the Netherlands – as the Member State which is competent under Title II of [Regulation No 883/2004] – a "child-raising period" taken into account within the meaning of Article 44(2) of [Regulation No 987/2009] by virtue of the fact that the period of child-raising in the Netherlands, as a pure period of residence, gives rise to a pension entitlement?

(2) If Question 1 is answered in the negative: [i]s Article 44(2) of Regulation No 987/2009 – following on from the judgments of 23 November 2000, [*Elsen* (C-135/99, EU:C:2000:647),] and of 19 July 2012, [*Reichel-Albert* (C-522/10, EU:C:2012:475)] – to be interpreted broadly as meaning that the competent Member State must also take into account the child-raising period if the person raising the child has completed pension-relevant periods before and after the child-raising due to education or employment only in the scheme of that [Member] State, but did not pay contributions into that scheme immediately before or after the child-raising?'

Consideration of the questions referred

Admissibility of the first question

32 By its first question, the referring court asks, in essence, whether Article 44(2) of Regulation No 987/2009 must be interpreted as meaning that a child-raising period, within the meaning of that provision, must be regarded as being taken into account where, under the legislation of the Member State which is competent under Title II of Regulation No 883/2004, it allows, as a period of residence, the acquisition of pension rights in that Member State.

33 According to the Court's settled case-law, although questions on the interpretation of EU law referred by a national court in the factual and legislative context which that court is responsible for defining, and the accuracy of which is not a matter for the Court of Justice to determine, enjoy a presumption of relevance, the procedure provided for in Article 267 TFEU is nevertheless an instrument of cooperation between the Court of Justice and national courts, by means of which the Court provides the national courts with the points of interpretation of EU law which they require in order to resolve the disputes before them (see, to that effect, judgment of 26 March 2020, *Miasto Łowicz and Prokurator Generalny*, C-558/18 and C-563/18, EU:C:2020:234, paragraphs 43 and 44 and the case-law cited).

34 In the case in the main proceedings, as the Advocate General observed in point 31 of his Opinion, in order for the institution of a Member State – in the present case, the German institution – to be required, in accordance with Article 44(2) of Regulation No 987/2009, to take into account child-raising periods completed by the person concerned in another Member State – in the present case, the Netherlands – three cumulative conditions must be satisfied: first, that the child-raising periods are not taken into account under the legislation of the latter Member State; secondly, that the legislation of the first Member State was previously applicable to the person concerned on the ground that he or she was pursuing an activity as an employed or self-employed person in that Member State; and, thirdly, that that person continued to be subject

to the legislation of the first Member State because of the pursuit of that activity at the date when, under the legislation of that Member State, the child-raising period began to be taken into account for the child concerned.

35 That provision specifies that that date is to be determined by the national provisions of the Member State governing the taking into account of child-raising periods. Under the German legislation, the relevant dates for that purpose are, in the present case, the dates of birth of the two children of the appellant in the main proceedings, namely 15 November 1986 and 2 June 1989.

36 Although, in accordance with Article 87(3) of Regulation No 883/2004 and Article 93 of Regulation No 987/2009, the latter regulation is applicable *ratione temporis* to the situation at issue in the main proceedings, that situation does not, however, satisfy all the conditions for the application of Article 44(2) of Regulation No 987/2009 since the appellant in the main proceedings did not pursue an activity as an employed or self-employed person in Germany either before or at the date when she began to raise her children.

37 Accordingly, it must be held that the latter provision is not applicable in the present case and that an answer from the Court to the first question is not necessary for the resolution of the dispute in the main proceedings.

38 It follows that the first question is inadmissible.

The second question

39 First of all, it should be observed that, according to settled case-law, in the procedure laid down by Article 267 TFEU providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the national court with an answer which will be of use to it and enable it to determine the case before it. To that end, the Court may have to reformulate the questions referred to it. The Court has a duty to interpret all provisions of EU law which national courts need in order to decide the actions pending before them, even if those provisions are not expressly indicated in the questions referred to the Court by those courts (judgment of 8 July 2021, *Staatsanwaltschaft Köln and Bundesamt für Güterverkehr*, C-937/19, EU:C:2021:555, paragraph 22 and the case-law cited).

40 In the present case, it is apparent from the request for a preliminary ruling that the subject matter of the dispute in the main proceedings concerns the failure by the respondent in the main proceedings to take into account, for the purposes of the grant of a pension for total incapacity for work to the appellant in the main proceedings, the child-raising periods which she completed in the Netherlands. In that regard, the referring court, while stating that the conditions for the application of Article 44(2) of Regulation No 987/2009 do not appear to be satisfied in the case in the main proceedings, is uncertain, however, whether, in the light of Article 21 TFEU, the respondent in the main proceedings is required, in accordance with the case-law resulting from the judgment of 19 July 2012, *Reichel-Albert* (C-522/10, EU:C:2012:475), to take those child-raising periods into account, despite the fact that, unlike the person concerned in the case which gave rise to that judgment, the appellant in the main proceedings did not pursue any activity giving rise to the payment of compulsory insurance contributions in Germany before and immediately after the periods in which she raised her children in the Kingdom of the Netherlands, the Member State in which she resided, not temporarily, but for many years.

41 In those circumstances, the second question must be understood as seeking, in essence, to ascertain whether Article 21 TFEU must be interpreted as meaning that, for the purposes of the grant of a pension for total incapacity for work, where the person concerned does not satisfy the condition of pursuing an activity as an employed or self-employed person imposed by Article 44(2) of Regulation No 987/2009 in order to have taken into account, by the Member State responsible for payment of that pension, child-raising periods which he or she completed in another Member State, but has exclusively completed periods of insurance in the first Member State, by virtue of periods of training or occupational activity, both before and after those child-raising periods, that Member State is required to take those child-raising periods into account despite the fact that that person did not pay contributions in that Member State before or immediately after those child-raising periods.

42 As a preliminary point, it should be noted that, according to the information provided to the Court in the present proceedings, the Federal Republic of Germany is the only Member State which is competent for the purposes of granting the appellant in the main proceedings a pension for total incapacity for work, which is the only pension at issue in the case pending before the referring court. At the hearing before the Court, the Netherlands Government thus stated that the appellant in the main proceedings was not entitled to a pension of that kind in the Netherlands, since she had never worked there. It thus appears that the periods at issue cannot be taken into account in the Netherlands for the purposes of the grant of such a pension.

43 That said, it is necessary to determine whether, having regard to Article 21 TFEU, periods such as those at issue must be taken into account by the institution of the Member State responsible for payment of the pension for total incapacity for work at issue in the main proceedings in circumstances such as those of the case in the main proceedings.

44 In that regard, it must be borne in mind that, since Article 44 of Regulation No 987/2009 does not govern exclusively the taking into account of child-raising periods abroad and since the objective of ensuring observance of the principle of freedom of movement, as enshrined in Article 21 TFEU, also prevails in the context of Regulations No 883/2004 and No 987/2009, the case-law set out in the judgment of 19 July 2012, *Reichel-Albert* (C-522/10, EU:C:2012:475), can be transposed to a situation in which Regulation No 987/2009 is applicable *ratione temporis*, but where the person concerned does not fulfil the condition of pursuing an activity as an employed or self-employed person imposed by Article 44(2) of that regulation in order, for the purposes of the grant of a pension, to have taken into account, by the Member State responsible for payment of that pension, child-raising periods which that person completed in other Member States (see, to that effect, judgment of 7 July 2022, *Pensionsversicherungsanstalt (Child-raising periods completed abroad)*, C-576/20, EU:C:2022:525, paragraph 62).

45 Thus, the Court held that, in a situation in which the person concerned did not meet that condition, but had worked and paid contributions exclusively in the Member State responsible for payment of his or her old-age pension, both before and after the transfer of his or her place of residence to the other Member States, in which he or she completed his or her child-raising periods, there was a sufficient link between the child-raising periods completed by that person abroad and the periods of insurance completed as a result of the pursuit of an occupational activity in the Member State responsible for the payment of the old-age pension. Therefore, according to the Court, that Member State is required to take into account those child-raising periods under Article 21 TFEU (see, to that effect, judgment of 7 July 2022, *Pensionsversicherungsanstalt (Child-raising periods completed abroad)*, C-576/20, EU:C:2022:525, paragraphs 65 and 66).

46 It thus follows from the case-law cited in the two preceding paragraphs that Article 21 TFEU requires the Member State responsible for the payment of the pension in question to take into account, for the purposes of granting that pension, the child-raising periods completed by the person concerned in another Member State where it is established that there is a sufficient link between those child-raising periods and the periods of insurance completed by that person as a result of the pursuit of an occupational activity in the first Member State.

47 The existence of such a 'sufficient link' must also be regarded as established where the person concerned has exclusively completed periods of insurance, by virtue of periods of training or occupational activity, in the Member State responsible for payment of his or her pension, both before and after the completion of the child-raising periods in another Member State.

48 It should be noted, in that regard, that, in accordance with Article 1(t) of Regulation No 883/2004, which is also relevant in the context of the interpretation of Article 21 TFEU, the term 'periods of insurance' means periods of contribution, employment or self-employment as defined or recognised as periods of insurance by the legislation under which they were completed or considered as completed, and all periods treated as such, where they are regarded by that legislation as equivalent to periods of insurance. Consequently, Member States may provide, in their national legislation, that certain periods of a person's life during which he or she did not pursue an activity as an employed or self-employed person subject to compulsory insurance and did not therefore pay contributions are to be treated as 'periods of insurance' completed in the Member State concerned.

49 In such a case, the fact that the person concerned did not pay contributions in that Member State during the periods thus treated, by its national legislation, as such periods of insurance cannot rule out the existence of a sufficient link between the child-raising periods completed by that person in another Member State and the periods of insurance completed in the first Member State.

50 In the present case, it is apparent from the documents before the Court that, before and after completion of the child-raising periods in the Netherlands, the appellant in the main proceedings completed periods of insurance in Germany only. It appears that, before the birth of her children, she completed periods of vocational training in Germany which, although they did not give rise to the payment of contributions, are treated by German law as periods of insurance. Furthermore, between the end of her child-raising periods and October 2012, she appears to have had a marginal job in Germany which is also treated, under German law, as a period of insurance even though it did not give rise to the payment of contributions. Lastly, from October 2012 until March 2018, she appears to have pursued an occupational activity in the Federal Republic of Germany subject to compulsory insurance and therefore to have paid contributions to the statutory compulsory insurance scheme of that Member State.

51 Accordingly, it appears, subject to verification by the referring court, that, in the case in the main proceedings, there is a sufficient link between the child-raising periods completed by the appellant in the main proceedings in the Netherlands and the periods of insurance which she completed exclusively in the Federal Republic of Germany, both before and after those child-raising periods, despite the fact that she did not pay contributions in the latter Member State before or immediately after those child-raising periods.

52 In a situation such as that at issue in the main proceedings, the length of the period of residence of the person concerned in the Member State in which that person has devoted himself or herself to bringing up his or her children is irrelevant.

53 Consequently, in such a situation, the Member State responsible for payment of the pension at issue cannot, without placing its nationals who have exercised their freedom of movement at a disadvantage and thus infringing Article 21 TFEU, preclude child-raising periods from being taken into account solely on the ground that they were completed in another Member State (see, to that effect, judgments of 19 July 2012, *Reichel-Albert*, C-522/10, EU:C:2012:475, paragraphs 41, 42 and 44, and of 7 July 2022, *Pensionsversicherungsanstalt (Child-raising periods completed abroad)*, C-576/20, EU:C:2022:525, paragraph 64).

54 It follows that, in a situation where, subject to the verifications to be carried out by the referring court, the person concerned has exclusively completed, by virtue of periods of training or occupational activity, periods of insurance in the Member State responsible for payment of his or her pension for total incapacity for work, both before and after the completion of child-raising periods in another Member State, the first Member State is required, under Article 21 TFEU, to take those child-raising periods into account for the purposes of granting that pension, despite the fact that that person did not pay contributions in that first Member State before or immediately after those child-raising periods.

55 In the light of the foregoing considerations, the answer to the second question is that Article 21 TFEU must be interpreted as meaning that, for the purposes of the grant of a pension for total incapacity for work, where the person concerned does not satisfy the condition of pursuing an activity as an employed or self-employed person imposed by Article 44(2) of Regulation No 987/2009 in order to have taken into account, by the Member State responsible for payment of that pension, child-raising periods which he or she completed in another Member State, but has exclusively completed periods of insurance in the first Member State, by virtue of periods of training or occupational activity, both before and after the completion of those child-raising periods, that Member State is required to take those child-raising periods into account despite the fact that that person did not pay contributions in that Member State before or immediately after those child-raising periods.

Costs

56 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Second Chamber) hereby rules:

Article 21 TFEU must be interpreted as meaning that, for the purposes of the grant of a pension for total incapacity for work, where the person concerned does not satisfy the condition of pursuing an activity as an employed or self-employed person imposed by 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 in order to have taken into account, by the Member State responsible for payment of that pension, child-raising periods which he or she completed in another Member State, but has exclusively completed periods of insurance in the first Member State, by virtue of periods of training or occupational activity, both before and after the completion of those child-raising periods, that Member State is required to take those child-raising periods into account despite the fact that that

person did not pay contributions in that Member State before or immediately after those child-raising periods.

[Signatures]