



Press and Information

Court of Justice of the European Union

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Judgment in Case C-45/17

Frédéric Jahin v Ministère de l'Économie et des Finances and Ministre des Affaires sociales et de la Santé

Income from assets of French nationals who work in a State other than a Member State of the EU/EEA or Switzerland may be subject to French social security contributions

In several judgments delivered in 2000¹ and in 2015,² the Court of Justice examined whether two French social security contributions (namely the Contribution Sociale Généralisée (General Social Contribution) — 'CSG' — and the Contribution pour le Remboursement de la Dette Sociale (Social Debt Repayment Contribution) — 'CRDS') could be deducted from the salaries, pensions, unemployment benefits and income from assets of workers who, though resident in France, were subject to the social security legislation of another Member State (in general because they were pursuing a professional activity in that other Member State).

The Court held that the two contributions at issue had a direct and sufficiently relevant link with social security by virtue of their specific and direct purpose of financing French social security schemes or discharging the deficits of the French general social security scheme. It concluded that, with regard to the employed and self-employed persons concerned, the levying of those contributions was incompatible both with the prohibition of overlapping social security legislation (Regulation No 1408/71)³ and with the free movement of workers and the freedom of establishment. Given that the persons concerned, as migrant workers, were subject to the social security scheme of the Member State of employment, their income, whether from an employment relationship or from their assets, could not be subject in the Member State of residence (in that case, France) to levies which had a direct and sufficiently relevant link to the branches of social security.

In the course of giving effect to the Court's judgment of 2015, the French tax authorities proceeded to reimburse the wrongfully collected levies. However, they stated that the right to reimbursement was reserved solely to natural persons affiliated to the social security schemes of the Member States of the EU and the European Economic Area (EEA) and Switzerland, thereby excluding natural persons affiliated to a social security scheme in a third country.

In the present case, the French Conseil d'État (Council of State) has referred for a preliminary ruling to the Court the question whether that exclusion is consistent with EU law. In this case, the person seeking to obtain reimbursement of the levies collected on his income from assets (income from real estate and a capital gain realised on the transfer of immovable property) is a French national (Mr Frédéric Jahin) who resides and works in China and is affiliated to a private social security scheme in that country.

¹Cases: [C-34/98](#) and [C-169/98](#) Commission v France, see Press Release No [9/00](#).

²Case: [C-623/13](#) de Ruyter, see Press Release No [22/15](#).

³Council Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (OJ English Special Edition 1971(II), p. 416), as amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996 (OJ 1997 L 28, p. 1) and further amended by Regulation (EC) No 1992/2006 of the European Parliament and of the Council of 18 December 2006 (OJ 2006 L 392, p. 1).

In today's judgment, the Court takes the view that the exclusion at issue constitutes a restriction on the free movement of capital, given that EU nationals affiliated to a social security scheme in another Member State (EU/EEA) or Switzerland enjoy more favourable tax treatment (in the form of an exemption from, or reimbursement of, the levies at issue) than do French nationals who reside in a third country and are affiliated to a social security scheme in that country (in the present case, China).

However, the Court finds that that restriction is justified in the present case, in so far as there is an objective difference between, on the one hand, a French national who, like Mr Jahin, resides in a third country and is affiliated to a social security scheme there and, on the other, an EU national affiliated to a social security scheme of another Member State: that latter national alone is, owing to his movement within the EU, liable to benefit from the principle that the legislation of a single Member State only is to apply in matters of social security. As Mr Jahin has not made use of the freedom of movement within the EU, he cannot rely on that principle. It follows that income derived from the assets of French nationals who work in a State other than a Member State of the EU/EEA or Switzerland may be subject to the French social security contributions.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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