

JUDGMENT OF THE
COURT OF 30 SEPTEMBER
1975

Anita Cristini
v Société nationale des chemins de fer français (preliminary
ruling requested by the Cour d'appel Paris)

'Railway tariffs for large families'

Case 32/75

Summary

Freedom of movement - Migrant worker - Death - Family - National treatment - Social advantages - Extent

(Regulation (EEC) No 1612/68 of the Council, Article 7 (2))

Article 7 (2) of Regulation (EEC) No 1612/68 of the Council on freedom of movement for workers within the [Union] must be interpreted as meaning that it refers to all social and tax advantages, whether or not attached to the contract of employment. These

advantages therefore also include fares reduction cards issued by a national railway authority to large families and this applies even if this advantage is only sought after the worker's death, to the benefit of his family remaining in the same Member State.

In Case 32/75

Reference to the Court under [Article 267 TFEU] by the Cour d'appel, Paris, for a preliminary ruling in the action pending before that court between

ANITA FIORINI (NEÉ CRISTINI) WIDOW OF EUGENIO FIORINI, residing at Venissieux, France,

and

SOCIÉTÉ NATIONALE DES CHEMINS DE FER FRANÇAIS, whose registered office is situated in Paris,

on the interpretation of Article 7 (2) of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the [Union] (OJ L 257 of 19 October 1968 (English Special Edition 1968 (II), p. 475)),

THE COURT

composed of: R. Lecourt, President, J. Mertens de Wilmars and A. J. Mackenzie Stuart, Presidents of Chambers, A. M. Donner, R. Monaco, P. Pescatore, H. Kutscher, M. Sorensen (Rapporteur) and A. O'Keefe, Judges,

Advocate-General: A. Trabucchi

Registrar: A. Van Routte

gives the following

JUDGMENT

Law

- 1 By judgment of 14 March 1975 which reached the Court on 21 March, the Cour d'appel, Paris, called upon the Court, pursuant to [Article 267 TFEU], to give a ruling on the issue whether the reduction card issued by the Société nationale des chemins de fer français for large families constitutes, for the workers of the Member States, a 'social advantage' within the meaning of Article 7 of Regulation (EEC) No 1612/68 of the Council of the European

[Union] of 15 October 1968 on freedom of movement for workers within the [Union] (O) L 257 of 19 October 1968).

- 2 It emerges from the judgment making the reference that the main action is concerned with the refusal by the SNCF of the request for such a reduction card, submitted by an Italian national, residing in France, whose husband, also of Italian nationality, worked in France where he died as the result of an industrial accident, leaving his widow and four infant children.
- 3 The refusal of the request, on the ground of the appellant's nationality, was based on provisions of French law which state that the reduction card for large families is in principle reserved solely for French nationals and that it is only issued to foreigners whose country of origin has entered into a reciprocal treaty with France on this particular subject, which is not the case so far as Italy is concerned.
- 4 The French Law of 29 October 1921, as amended by the Law of 24 December 1940 and the Decree of 3 November 1961, provides that in families of three or more children under the age of eighteen years the father, the mother and each child shall, at the request of the head of the family, receive an identity card entitling them to certain reductions in the fares of the SNCF.
- 5 Article 20 of the Code français de la famille et de l'aide sociale (French . Family and Social Security Code) (Decree of 24 January 1956) provides that for the purpose of assisting families in bringing up their children, they shall be granted certain allowances and benefits, which are listed, albeit not exhaustively, and include, apart from family benefits provided for by the social security legislation and tax reductions or exemptions, reductions in the railway fares prescribed by the Law concerned in the present case.
- 6 Although the Court, when giving a ruling under [Article 267 TFEU], has no jurisdiction to apply the [Union] rule to a specific case, or, consequently, to pronounce upon a provision of national law, it may however provide the national court with the factors of interpretation depending on [Union] law which might be useful to it in evaluating

the effects of such provision.

- 7 Article 7 (1) of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 provides that a worker who is a national of a Member State may not, in the territory of the other Member States, be treated differently from national workers by reason of his nationality in respect of any conditions of employment and work.
- 8 Under paragraph (2) of that article he is to enjoy 'the same social and tax advantages as national workers'.
- 9 Under paragraph (3) of that article he must also, 'by virtue of the same right and under the same conditions as national workers, have access to training in vocational schools and retraining centres'.
- 10 The respondent in the main action has argued that the advantages thus prescribed are exclusively those attaching to the status of worker since they are connected with the contract of employment itself.
- 11 Although it is true that certain provisions in this article refer to relationships deriving from the contract of employment, there are others, such as those concerning reinstatement and re-employment should a worker become unemployed, which have nothing to do with such relationships and even imply the termination of a previous employment.
- 12 In these circumstances the reference to 'social advantages' in Article 7 (2) cannot be interpreted restrictively.
- 13 It therefore follows that, in view of the equality of treatment which the provision seeks to achieve, the substantive area of application must be delineated so as to include all social and tax advantages, whether or not attached to the contract of employment, such as reductions in fares for large families.
- 14 It then becomes necessary to examine whether such an advantage must be granted to the widow and children after the death of the

migrant worker when the national law provides that, at the request of the head of the family, each member of the family shall be issued with an identity card entitling him or her to the reduction.

- 15 If the widow and infant children of a national of the Member State in question are entitled to such cards provided that the request had been made by the father before his death, the same must apply where the deceased father was a migrant worker and a national of another Member State.
- 16 It would be contrary to the purpose and the spirit of the [Union] rules on freedom of movement for workers to deprive the survivors of such a benefit following the death of the worker whilst granting the same benefit to the survivors of a national.
- 17 In this respect it is important to note the provisions of Regulation (EEC) No 1251/70 of the Commission on the right of workers to remain in the territory of a Member State after having been employed in that State,
- 18 Article 3 (1) of that regulation provides that if a worker has acquired the right to remain in the territory of a Member State, the members of his family who are residing with him shall be entitled to remain there after his death, whilst Article 7 provides that: 'The right to equality of treatment, established by Council Regulation (EEC) No 1612/68, shall apply also to persons coming under the provisions of this regulation'.
- 19 Accordingly the answer to the question should be that Article 7 (2) of Regulation (EEC) No 1612/68 of the Council must be interpreted as meaning that the social advantages referred to by that provision include fares reduction cards issued by a national railway authority to large families and that this applies, even if the said advantage is only sought after the worker's death, to the benefit of his family remaining in the same Member State.

Costs

20/21 The costs incurred by the French Government, the Italian Government and the Commission of the European [Union], which have submitted observations to the Court, are not recoverable, and as these proceedings are, in so far as the parties to the main action are concerned, a step in the action pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT

in answer to the question referred to it by the Cour d'appel, Paris, by judgment of 14 March 1975 hereby rules:

Article 7 (2) of Regulation (EEC) No 1612/68 of the Council on freedom of movement for workers within the [Union] must be interpreted as meaning that the social advantages referred to by that provision include fares reduction cards issued by a national railway authority to large families and that this applies, even if the said advantage is only sought after the worker's death, to the benefit of his family remaining in the same Member State.

Lecourt Mertens de Wilmars Mackenzie Stuart Donner
 Monaco Pescatore Kutscher Sorensen
 O'Keefe

Delivered in open court in Luxembourg on 30 September 1975.

A. Van Houtte
Lecourt
Registrar

R.

President