



07.05.2021

NOTICE TO MEMBERS

Subject: Petition No 0773/2020 by G.H. (German) on pension entitlements in the Netherlands and Great Britain

1. Summary of petition

The petitioner, who is resident in Germany, has pension entitlements in several countries. His pension entitlement in the Netherlands has been reduced in recent years and he considers that he receives a lower pension than he would if he were resident in the Netherlands. He has been informed by the UK authorities that he will no longer receive any pension increases in the future. He believes that this is the result of the Brexit negotiations and asks the European Parliament to take this point into account in the negotiations.

2. Admissibility

Declared admissible on 5 November 2020. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 7 May 2021

‘EU law in the field of social security, in particular Regulation (EC) No 883/2004¹, provides for the coordination of the Member States' national social security systems. It does not harmonise the social security systems, meaning that each Member State is competent to determine the details of its own social security system, including which benefits are provided, the conditions for eligibility, how these benefits are calculated and what contributions should be paid. The Regulation establishes common rules and principles that must be observed by all national authorities when applying national law. These rules include the basic principles of

¹ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland), *OJ L 166*, 30.4.2004, p. 1–123

equality of treatment and non-discrimination and ensures that the application of national legislations does not adversely affect persons exercising their right to free movement within the European Union.

An additional one of these common principles, which is laid down in Article 7 of the Regulation is, that social security benefits must not be subject to reduction or suspension where the beneficiary resides in a Member State other than the one providing the benefit. Thus, it would be contrary to EU law if the petitioner's Dutch pension was reduced on account of the fact that he is resident in Germany. However, it is not apparent from the documents submitted that a reduction on this ground has occurred. Rather, it seems that the petitioner has had to pay a tax or social security contribution in the Netherlands. Based on the information provided, it is not possible to determine whether this levy is in compliance with EU law. The Commission would like to draw attention to the fact that pursuant to Article 30 of the Regulation, the Member State that bears the cost of a pensioner's healthcare, according to the priority rules laid down in Articles 23-26, can also collect contributions to this end. Yet, it is not clear from the petition whether in the given case the Netherlands is the Member State responsible for the petitioner's healthcare.

As regards the letter which the petitioner has received from the United Kingdom (UK) authorities concerning his UK State Pension, this letter dates from 2019 and contains outdated information. The Withdrawal Agreement (WA), which has since been concluded between the EU and the UK and which applies since 1 February 2020, protects the pension rights of persons like the petitioner who have exercised their free movement rights before the end of the transition period (i.e. before 31 December 2020). More precisely, as a dual German/UK national who has worked i.a. in the UK and now resides in Germany, he will be able to rely on Article 32(1)(a) WA. Based on this Article, the same rules as under EU law will continue to apply to his UK State Pension in the future. In particular, he will still be entitled to the same amount which he would receive if he was residing in the UK. The UK authorities have repeatedly assured the Commission services that the pensions of the WA beneficiaries resident in an EU Member State will continue to be uprated until the end of their entitlement.

Conclusion

Based on the information submitted, it is not possible to conclude that the issue raised concerning the petitioner's Dutch pension represents a violation of EU law. The issue referred to with regard to the UK State Pension is resolved by the conclusion of the Withdrawal Agreement between the EU and the UK.'