

GMS Flash Alert

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European Union – Commission Requests Greece Comply with Family Benefits Rules for Mobile Workers

The European Commission issued on 29 July 2024 its reasoned opinion to Greece¹ for failing to comply with EU rules for social security. If Greece does not take necessary measures to adjust its statutes and align its law with EU law, the Commission may decide to take Greece to the Court of Justice of the European Union (CJEU).

Greek law on family benefits stipulates that EU nationals are eligible for family benefits after five years of residence in Greece with their families, while non-EU nationals who are covered by the EU legislation for social security are eligible for family benefits after 12 years of residence in Greece.

WHY THIS MATTERS

Pertinent to this particular case, mobile EU and non-EU workers who are covered by EU legislation for social security because they moved to Greece from another EU member state must be treated equally to Greek residents and their coverage under social security in another EU member state may not be disqualified when determining their eligibility for family benefits in Greece.

EU rules for social security prohibit any residence requirement for receiving social security benefits such as family benefits/allowances.

It is not possible to determine if Greece will persist in maintaining a statute that is clearly in breach of EU law – similar to what we have seen with Germany and Italy² – and end up being referred to CJEU, or if it will make necessary adjustments and process all relevant cases in accordance with EU law.

Where employees may have experienced differential treatment, they and their employers may wish to track developments in this case. When appropriate, they may be able to claim rights to family benefits (or request a reassessment of already-granted family benefits), even if such claim is a retroactive one.

The Case in Brief

Greek legislation for family benefits³ sets out specific requirements for residence in Greece before family benefits can be granted to EU mobile workers and non-EU mobile workers who are covered by EU legislation for social security.⁴

The legislation distinguished between two categories of mobile workers:

- EU nationals who have been residing for at least five years together with their children in Greece are eligible to apply for family benefits:
- Non-EU nationals who are covered by the EU social security coordination rules, because they moved to Greece from another EU member state, can only apply for family benefits after being resident in Greece for at least 12 years.

EU coordination rules for social security stress that the “general principal of equal treatment is of particular importance for workers who do not reside in the EU member state of employment.”⁵

Furthermore, the EU coordination rules are outlined in a way that mobile workers and their families are guaranteed that, when moving within the EU, their rights are retained, “in particular by aggregating all the periods taken into account under the various national legislation for the purpose of acquiring and retaining the right to benefits.”⁶

The European Commission hints that Greek law violates the equality of treatment principle enshrined in EU rules for social security⁷ and that the conditions of residence outlined in the country’s law infringe Article 7 on EU coordination rules for social security. Article 7 stipulates that benefits “shall not be subject to any reduction, amendment, suspension, withdrawal or confiscation on account of the fact that the beneficiary or the members of his/her family reside in a Member State other than that in which the institution responsible for providing benefits is situated.”⁸

KPMG INSIGHTS

A review of our previous *GMS Flash Alerts* suggests a trend toward restrictions by EU member states on rights to family benefits for mobile workers⁹, though such restrictions, it can be argued, are contrary to current EU legislation for social security.

These cases indicate that there are local governments in some EU countries that are willing to pursue a path that restricts rights to benefits for mobile workers, which can affect benefits for a considerable number of workers who are not nationals of the country where they work and/or live.

It is therefore important for employers to monitor such developments and trends and consider the possibility of providing support to their mobile workers who may be negatively impacted by these policies.

It is reasonable to expect that national laws that prevent mobile workers from accessing benefits will be challenged and perhaps even overturned. If overturned, this could mean that individuals who are now denied their full rights will have such rights restored to them at the point they are overturned, for example in the CJEU. It is at this point that affected mobile workers could use some support to help rectify their situations with respect to their rights to receive family benefits.

FOOTNOTES:

1 European Commission: [July Infringement package: key decisions, section 5 Jobs and social rights](#), 29 July 2024.

For prior coverage of this topic in *GMS Flash Alert*, see [2023-223](#) (22 November 2023).

2 See [GMS Flash Alert 2024-220](#), 8 November 2024.

3 European Commission: [Your social security rights in Greece](#), 2024.

4 European Union: [Regulation 883/2004/EC on coordination of social security systems](#), 29 April 2004.

5 *Ibid.*, preamble (8).

6 *Ibid.*, preamble (14).

7 *Ibid.*, Article 4-5.

8 *Ibid.*, Article 7.

9 See footnote 2.

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