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Judgment of the Court in Case C-277/23 | Ministarstvo financija (Erasmus+ grant)

Erasmus+ grant: the amount paid to a student should not be taken into account in calculating the income tax of the parent on whom that student is dependent

A Croatian student received support for learning mobility under the Erasmus+ programme for a period of study at a university in Finland. The Croatian tax authorities informed his mother that the increase in the basic personal allowance for a dependent child, which she had always received, had been removed for the corresponding year. The thresholds laid down in Croatian legislation had been exceeded because her child received mobility support under the Erasmus+ programme.

The Croatian Constitutional Court, before which the dispute has been brought, questions whether the national tax legislation at issue is compatible with EU law. **The Court of Justice replies that it is not.**

It observes, first of all, that, if a Member State participates in the Erasmus+ programme, it must ensure that the arrangements for the allocation and taxation of grants intended to support the mobility of beneficiaries of that programme do not create an unjustified restriction on the right to freedom of movement and residence within the territory of the Member States.

In the present case, the mobility support was not, as such, subject to taxation in Croatia at the material time. However, it was taken into account for the purposes of calculating the mother's income tax, which placed her at a disadvantage.

The taking into account of the mobility support received by a dependent child in order to determine the amount of the basic allowance to which a taxpayer parent is entitled for that child, entailing **the loss of the right to increase that allowance in the context of the calculation of income tax, constitutes a restriction on the right to freedom of movement and residence.**

The Court considers that in such circumstances, in view, inter alia, of the economic links between the child and his or her parent, **the effects of that restriction may be relied on, not only by the dependent child who has exercised his or her freedom of movement, but also by his or her taxpayer parent, who is directly disadvantaged by the effects of that restriction.**

Lastly, the Court recalls that a restriction on the right to freedom of movement and residence can be justified in the light of EU law only if it is based on objective considerations of public interest, independent of the nationality of the persons concerned. In addition, it must be proportionate to the legitimate objective of the provisions of national law. In particular, it must be appropriate for securing the attainment of that objective. As regards, more specifically, compliance with the principle of proportionality, the Court notes that financial support under the Erasmus+ programme is intended to contribute to covering the additional costs that would not have arisen in the absence of that mobility. Consequently, that financial support does not reduce the expenditure of taxpayer parents in connection with their maintenance obligations towards dependent children or further increase those parents'

capacity to pay tax. The tax treatment of that financial support is likely to lead to a heavier tax burden for those taxpayer parents, without the resources available to them having been increased in order to meet that burden. Consequently, the Court considers that the national legislation at issue may even produce opposite effects.

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 an EU 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 and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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