

responsible for any consequent termination of the employment relationship, under Article 4 of that Directive, even if that termination were to be initiated by the worker.

ECJ 4 December 2019, case C-413/18 P (H – v – Council), Miscellaneous

H – v – Council of the European Union, EU case

Appeal

Appeal to General Court of the European Union of 11 April 2018, H v Council (T-271/10 RENV, EU:T:2018:180).

By her appeal, the appellant claims that the Court should:

- set aside the judgment under appeal in so far as the General Court dismissed her action for annulment of the decisions at issue and the claim for damages;
- give a decision on the case and, if appropriate, refer the case back to the General Court for judgment; and
- order the Council to pay the appellant's costs in the proceedings which gave rise to the judgment of 19 July 2016, H v Council and Commission (C-455/14 P, EU:C:2016:569), and the costs of the present appeal.

Decision

The Court (Fifth Chamber):

1. Sets aside the judgment of the General Court of the European Union of 11 April 2018, H v Council (T-271/10 RENV, EU:T:2018:180);
2. Refers the case back to the General Court of the European Union for a ruling on the third, fourth and fifth pleas of the action for annulment and on the claim for compensation;
3. Orders that the costs be reserved.

ECJ 5 December 2019, joined cases C-398/18 and C-428/18 (Bocero Torrico), Social Insurance

Antonio Bocero Torrico (C-398/18), Jörg Paul Konrad Fritz Bode (C-428/18) – v – Instituto Nacional de la Seguridad Social, Tesorería General de la Seguridad Social, Spanish cases

Questions

Must the provisions of Regulation No 883/2004 must be interpreted as precluding legislation of a Member State which requires, as a condition for a worker to be eligible for an early retirement pension, that the amount of the pension to be received must be higher than the minimum pension that would be due to that worker upon reaching the statutory retirement age under that legislation, the term 'pension to be received' being interpreted as referring only to the pension payable by that Member State, and not including any pension which that worker may receive through equivalent benefits payable by one or more other Member States?

Ruling

Article 5(a) of Regulation No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems must be interpreted as precluding legislation of a Member State which requires, as a condition for a worker to be eligible for an early retirement pension, that the amount of the pension to be received must be higher than the minimum pension that would be due to that worker upon reaching the statutory retirement age under that legislation, where the term 'pension to be received' is interpreted as referring only to the pension from that Member State, and not including the pension which that worker may receive through equivalent benefits payable by one or more other Member States.