

Case C-404/21, Pension

WP – v – Istituto nazionale della previdenza sociale, Repubblica italiana, reference lodged by the Tribunale Ordinario di Asti (Italy) on 13 January 2021

1. Must Articles 45 and 48 TFEU, Article 4 TEU, Article 11 of Annex VIII to the Staff Regulations of Officials [of the European Union] and Article 8 of Annex IIIa to the Conditions of Employment for Staff of the European Central Bank be interpreted as precluding a set of national rules or a national administrative practice which does not allow a worker who is a national of a Member State who has paid contributions to the national social security institution and who currently works for an EU institution, such as the ECB, to transfer to the pension scheme of that institution the pension contributions credited to the social security scheme of his or her own State?
2. Based on the answer to the question set out above, must it be possible to exercise the right to transfer contributions even in the absence of national implementing legislation or a specific agreement between the Member State of which the worker is a national or the worker's pension institution, on the one hand, and the EU institution, on the other?

Case C-410/21, Social Insurance

FU, DRV Intertrans BV, reference lodged by the Hof van Cassatie (Belgium) on 5 July 2021

1. Must Article 5 of Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems to be interpreted as meaning that:
if, following a request by the authorities of the Member State of employment for the retroactive withdrawal of the 'A1' certificates, the authorities of the Member State which issued those A1 certificates confine themselves to withdrawing those certificates provisionally, stating that they no longer have any binding force, so that the criminal proceedings in the Member State of employment can continue, and that a final decision will only be taken by the Member State that issued the A1 certificates once the criminal proceedings in the Member State of employment have been finally concluded, the presumption attached to the A1 certificates that the workers concerned are properly affiliated to the social security system of that issuing Member State

ceases to apply and those A1 certificates are no longer binding on the authorities of the Member State of employment;

2. if the answer to that question is in the negative, the authorities of the Member State of employment may, in the light of the case-law of the Court of Justice of the European Union, disregard the A1 certificates at issue on the grounds of fraud?
3. Must Article 13(1)(b)(i) of Regulation (EC) No 883/2004 of 29 April 2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, Articles (3) (1)(a) and 11(1) of Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC and Article (4)(1)(a) of Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market be interpreted as meaning that it necessarily follows from the fact that an undertaking which obtains a road transport authorisation in a Member State of the European Union pursuant to Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009 and which therefore must have an effective and stable establishment in that Member State, that it has been irrefutably demonstrated that its registered office is established in that Member State, as referred to in Article 13(1) of the aforementioned Regulation No 883/2004/EC, for the purposes of determining the applicable social security system and that the authorities of the Member State of employment are bound by that determination?

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Case C-427/21, Temporary Agency Work

LD – v – ALB FILS KLINIKEN GmbH, reference lodged by the Bundesarbeitsgericht (Germany) on 14 July 2021

1. Do Articles 1(1) and (2) of Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work apply if – as specified in Paragraph 4(3) of the Tarifvertrag für den Öffentlichen Dienst (collective agreement for the public service, 'the TVöD') – an employee's duties are assigned to a third party and this employee must, at the request of his or her current employer while the existing employment relationship with the latter continues, perform his or her contractually agreed work for said third party on a permanent basis and accept technical and organisational instructions from the third party?