Dit artikel uit European Employment Law Cases is gepubliceerd door Boom juridisch en is bestemd voor anonieme bezoeker

ECJ 18 October 2022, case C-677/20 (IG Metall and ver.di), Information & Consultation

Industriegewerkschaft Metall (IG Metall), ver.di - Vereinte Dienstleistungsgewerkschaft – v – SAP SE, SE-Betriebsrat der SAP SE, German case

Summary

Where national law requires, in respect of the company to be transformed, a separate ballot for the election of employees' representatives nominated by the trade unions, that electoral arrangement must be preserved.

Question

Must Article 4(4) of Directive 2001/86/EC be interpreted as meaning that the agreement on arrangements for the involvement of employees applicable to an SE established by means of transformation, as referred to in that provision, must provide for a separate ballot with a view to electing, as employees' representatives within the SE's Supervisory Board, a certain proportion of candidates nominated by the trade unions, where the applicable law requires such a separate ballot as regards the composition of the Supervisory Board of a company to be transformed into an SE?

Ruling

Article 4(4) of Directive 2001/86/EC must be interpreted as meaning that the agreement on arrangements for the involvement of employees applicable to a European company (SE) established by means of transformation, as referred to in that provision, must provide for a separate ballot with a view to electing, as employees' representatives within the SE's Supervisory Board, a certain proportion of candidates nominated by the trade unions, where the applicable national law requires such a separate ballot as regards the composition of the Supervisory Board of the company to be transformed into an SE, and it is necessary to ensure that, in the context of that ballot, the employees of that SE, of its subsidiaries and of its establishments are treated equally and that the trade unions represented therein are treated equally.

ECJ 13 October 2022, case C-199/21 (Finanzamt Österreich), Social insurance

DN – v – Finanzamt Österreich, Austrian case

Summary

According to the Court of Justice, a person in receipt of pensions in two Member States is entitled to family benefits in accordance with the legislation of those two Member States. When the receipt of such benefits in one of those Member States is precluded pursuant to the national legislation, the priority rules referred to in Article 68(1) and (2) of Regulation No 883/2004 do not apply. The Court further held that national legislation which allows the recovery of family benefits awarded, where the parent entitled to such benefits pursuant to that legislation has not applied for them, to the other parent, whose application has been taken into account, in accordance with that provision, by the competent institution, and who in fact bears the entire cost associated with the maintenance of the child, is precluded.

Questions

1. How must the second sentence of Article 67 and Article 68(1) and (2) of Regulation No 883/2004 be interpreted in order to determine, where a person is in receipt of pensions in two Member States, in accordance with the legislation of which of those Member States that person is entitled, on a primary basis, as the case may be, to family benefits?
2. Must the third sentence of Article 60(1) of Regulation no 987/2009 be interpreted as precluding national legislation pursuant to which entitlement to family benefits is restricted to the parent who lives with the child, with the result that, even where that parent has not applied for such benefits, the other parent, who in fact bears the entire cost associated with the maintenance of the child, is not entitled to those benefits?

Ruling

1. The second sentence of Article 67 of Regulation No 883/2004 must be interpreted as meaning that, where a person is in receipt of pensions in two Member States, that person is entitled to family benefits in accordance with the legislation of those

doi: 10.5553/EELC/187791072022007004011

Dit artikel uit European Employment Law Cases is gepubliceerd door Boom juridisch en is bestemd voor anonieme bezoeker

two Member States. Where the receipt of such benefits in one of those Member States is precluded pursuant to the national legislation, the priority rules referred to in Article 68(1) and (2) of that regulation do not apply.
2. The third sentence of Article 60(1) of Regulation (EC) No 987/2009 must be interpreted as precluding national legislation which allows the recovery of family benefits awarded, where the parent entitled to such benefits pursuant to that legislation has not applied for them, to the other parent, whose application has been taken into account, in accordance with that provision, by the competent institution, and who in fact bears the entire cost associated with the maintenance of the child.

ECJ 13 October 2022, case C-593/21 (Herios), Miscellaneous

NY – v – Herios SARL, Belgian law

Summary

The goodwill indemnity which has been paid by the principal to the main agent in respect of the customer base brought by the subagent is capable of constituting, for the main agent, a substantial benefit. However, the payment of a goodwill indemnity to the subagent may be regarded as not being equitable, within the meaning of Article 17(2)(a) of Directive 86/653/EEC, where the subagent continues his or her commercial agency business in relation to the same clients and for the same products but in the context of a direct relationship with the main principal, which replaced the main agent that had previously engaged him or her.

Question

Must Article 17(2)(a), first and second indents, of Directive 86/653/EEC be interpreted as meaning that a goodwill indemnity received by the main agent is respect of the customer base brought by the subagent is capable of constituting, for the main agent, a substantial benefit where that subagent has become the main agent of the principal?

Ruling

Article 17(2)(a) of Directive 86/653/EEC must be interpreted as meaning that the goodwill indemnity which has been paid by the principal to the main agent in respect of the customer base brought by the subagent is capable of constituting, for the main agent, a substantial benefit. However, the payment of a goodwill indemnity to the subagent may be regarded as not being equitable, within the meaning of that provision, where the subagent continues his or her commercial agency business in relation to the same clients and for the same products but in the context of a direct relationship with the main principal, which replaced the main agent that had previously engaged him or her.

ECJ 13 October 2022, case C-713/20 (Raad van bestuur van de Sociale verzekeringsbank), Social insurance

Raad van bestuur van de Sociale verzekeringsbank – v – X & Y., Dutch case

Summary

A person residing in a Member State who carries out, through a temporary employment agency established in another Member State, temporary work assignments in the territory of that other Member State, is during the intervening periods between those temporary work assignments subject to the national legislation of the Member State in which he or she resides, providing that, by reason of the temporary contract, the employment relationship ceases during those periods.

Question

Must Article 11(3)(a) and (e) of Regulation No 883/2004 be interpreted as meaning that a person residing in a Member State who carries out, through a temporary employment agency established in another Member State, temporary work assignments in the territory of that other Member State is subject, during the intervening periods between those temporary work assignments, to the national legislation of his or her Member State of employment, or to the national legislation of his or her Member State of residence?

doi: 10.5553/EELC/187791072022007004011