

## Questions

Must Article 22 of Regulation No 1071/2009, read in conjunction with Article 6(1) of that regulation, be interpreted as precluding a national law pursuant to which a person that incurs criminal responsibility for infringements committed within a road transport undertaking and whose conduct is taken into account for the purpose of assessing the good repute of that undertaking may designate a person as having the capacity of the agent responsible for compliance with the provisions of EU law concerning the driving time and rest periods of drivers, thereby transferring to that latter person the criminal responsibility for infringements of those provisions of EU law, where the national law does not permit the infringements imputed to that agent to be taken into account for the purpose of assessing whether that transport undertaking meets the requirement of good repute?

## Ruling

Article 22 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, as amended by Council Regulation (EU) No 517/2013 of 13 May 2013, read in conjunction with Article 6(1) of Regulation No 1071/2009, as amended, must be interpreted as precluding a national law pursuant to which a person that incurs criminal responsibility for infringements committed within a road transport undertaking and whose conduct is taken into account for the purpose of assessing the good repute of that undertaking may designate a person as an agent responsible for compliance with the provisions of EU law concerning the driving time and rest periods of drivers, thereby transferring to that person criminal responsibility for infringements of those provisions of EU law, where the national law does not permit the infringements imputed to that agent to be taken into account for the purpose of assessing whether that undertaking meets the requirement of good repute?

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## ECJ 15 June 2023, case C-499/21 P, C-501/21 P and C-502/21 P (Shindler and Others v Council), Miscellaneous

Harry Shindler and Others – v – Council of the European Union, EU Case

### Summary

British citizens have lost their rights as EU citizens as a result of Brexit. The ECJ's summary of the judgment is available on <https://curia.europa.eu/jcms/upload/docs/application/pdf/2023-06/cp230101en.pdf>.

### Ruling

The Court (Eighth Chamber):

1. Dismisses the appeal
2. Orders [the claimants] to pay the costs.

## ECJ 15 June 2023, case C-132/22 (Ministero dell'Istruzione, dell'Università e della Ricerca (Classements spéciaux)), Free Movement

BM, NP – v – Ministero dell'Istruzione, dell'Università e della Ricerca – MIUR, Italian case

### Summary

A Member State may not exclude professional experience gained in other Member States from consideration in admitting candidates to a candidate list for the recruitment of staff in national public higher-education institutions, as this puts both foreign applicants as domestic applicants with foreign experience at a disadvantage.

## Question

Must Article 45 TFEU and Article 3(1)(b) of Regulation No 492/2011 be interpreted as precluding national legislation that provides that only candidates who have gained a certain amount of professional experience at national public higher-education institutions for the fine arts, music and dance may be admitted to a procedure for inclusion on the lists compiled for the purpose of recruiting, on permanent or temporary employment contracts, staff in those institutions and that thus prevents professional experience gained in other Member States from being taken into consideration for the purpose of admission to that procedure?

## Ruling

Article 45 TFEU and Article 3(1)(b) of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union must be interpreted as precluding national legislation that provides that only candidates who have gained a certain amount of professional experience at national public higher-education institutions for the fine arts, music and dance may be admitted to a procedure for inclusion on the lists compiled for the purpose of recruiting, on permanent or temporary employment contracts, staff in those institutions and that thus prevents professional experience gained in other Member States from being taken into consideration for the purpose of admission to that procedure.

## ECJ 15 June 2023, case C-411/22 (Thermalhotel Fontana), Free Movement, Social Insurance

Thermalhotel Fontana Hotelbetriebsgesellschaft mbH – v – Bezirkshauptmannschaft Südoststeiermark, Austrian case

## Summary

Compensation granted during Covid-19 isolation does not qualify as ‘sickness benefit’ within the meaning of Regulation 883/2004. However granting such compensation only to domestic quarantined workers is indirectly discriminatory (and illegitimate), as cross-border workers are denied such compensation. The ECJ’s summary of the judgment is available on: <https://>

[curia.europa.eu/jcms/upload/docs/application/pdf/2023-06/cp230100en.pdf](https://curia.europa.eu/jcms/upload/docs/application/pdf/2023-06/cp230100en.pdf).

## Question

1. Must Article 3(1)(a) of Regulation No 883/2004 be interpreted as meaning that compensation, financed by the State, which is due to workers for the pecuniary disadvantages caused by the impediment to their employment during their isolation as persons infected with, suspected of being infected with, or suspected of being contagious with COVID-19 constitutes a ‘sickness benefit’, referred to in that provision, and therefore comes within the scope of that regulation?
2. Must Article 45 TFEU and Article 7 of Regulation No 492/2011 be interpreted as precluding legislation of a Member State under which the granting of compensation for loss of earnings suffered by workers as a result of isolation ordered following a positive COVID-19 test result is subject to the condition that the imposition of the isolation measure be ordered by an authority of that Member State under that legislation?

## Ruling

1. Article 3(1)(a) of Regulation (EC) 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 meaning that compensation, financed by the State, which is due to workers for the pecuniary disadvantages caused by the impediment to their employment during their isolation as persons infected with, suspected of being infected with, or suspected of being contagious with COVID-19 does not constitute a ‘sickness benefit’, referred to in that provision, and does not therefore come within the scope of that regulation.
2. Article 45 TFEU and Article 7 of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union must be interpreted as precluding legislation of a Member State under which the granting of compensation for loss of earnings suffered by workers as a result of isolation ordered following a positive COVID-19 test result is subject to the condition that the imposition of the isolation measure be ordered by an authority of that Member State under that legislation.

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