

## ECJ Court Watch – Pending Cases

### Case C-472/16. Transfer of undertakings

Jorge Luis Colino Sigüenza – v – Ayuntamiento de Valladolid, In-pulso Musical, Sociedad Cooperativa, reference lodged by the Spanish Tribunal Superior de Justicia de Castilla y León on 24 August 2016

Should it be considered that there is a transfer for the purposes of Directive 2001/23/EC where the holder of a concession of a Council Music School, which receives all the material resources from that Council (premises, instruments, classrooms, furniture), has engaged its own staff and provides its services during the academic year, ceases that activity on 1 April 2013, two months before the end of the academic year, returning all the material resources to the Council, which does not resume the activity for the remainder of the academic year 2012–2013, but awards a new concession to a new contractor, which resumes the activity in September 2013, at the beginning of the new academic year 2013–14, transferring to the new contractor for that purpose the necessary material resources previously made available to the former contractor by the Council (premises, instruments, classrooms, furniture)?

If the answer to the previous question is in the affirmative, is it to be understood for the purposes of Article 4(1) of Directive 2001/23/EC that, in the circumstances described, – in which the failure of the main undertaking (the Council) to fulfil its obligations obliges the first contractor to cease its activity and to dismiss all its staff and immediately afterwards that main undertaking transfers the material resources to a second contractor, which continues with the same activity –, the dismissal of the first contractor’s workers has occurred for ‘economic, technical or organisational reasons entailing changes in the workforce’ or has it been caused by ‘the transfer of the undertaking, business or part of the undertaking or business’, a cause prohibited by that article?

If the reply to the previous question is that the dismissal has been caused by the transfer and is therefore contrary to Directive 2001/23/EC, is Article 47 of the Charter of the Fundamental Rights of the European Union to be interpreted as meaning that it precludes national legislation prohibiting a court from ruling on the substance of the claims of a worker who contests in an individual action the decision to dismiss him, as part of a collective

dismissal, in order to defend the rights deriving from Council Directive 2001/23/EC [...] and Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies, owing to the fact that final judgment has already been given on the collective dismissal in proceedings to which the worker was unable to be a party, although the unions established in the undertaking and all the collective legal representatives of the workers were or were able to be parties?

### Case C-474/16. Social security

The public prosecutor, Belu Dienstleistung GmbH & Co KG, Stefan Nikless, reference lodged by the French Cour d’appel de Colmar on 29 August 2016

Is the legal effect of an A1 certificate issued to a temporary-work agency, in accordance with Article 19 of Regulation (EC) No 987/2009 [...] laying down the procedure for implementing Regulation (EC) No 883/2004 [...] on the coordination of social security systems, by the institution designated by the Member State whose social security legislation remains applicable to the employed worker, binding, first, on the institutions and authorities of the host Member State and, secondly, on the courts of that Member State, if it is found that the conditions under which the employee pursues the activity clearly do not fall within the substantive scope of the specific rules set out in Article 12(1) and (2) of Regulation (EC) No 883/2004?

### Case C-482/16. Age discrimination

Georg Stollwitzer – v –ÖBB Personenverkehr AG, reference lodged by the Austrian Oberlandesgericht Innsbruck on 7 September 2016

Is EU law as it currently stands, in particular the general principle in EU law of equal treatment, the general principle of the prohibition of discrimination on grounds of age within the meaning of Article 6(3) TEU and Article 21 of the Charter of Fundamental Rights, the prohibition of discrimination in connection with