

## ECJ 30 April 2020, case C-211/19 (UO – v – Készenléti Rendőrség), Working time

UO – v – Készenléti Rendőrség, Hungarian case

No English translation has been made available yet. For now, the official case information is available on: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELLAR:8ae5a74c-8ac8-11ea-812f-01aa75ed71a1>

## ECJ 30 April 2020, joined cases C-168/19 and C-169/19 (Istituto nazionale della previdenza sociale), Pension, Other Forms of Discrimination

HB – v – Istituto nazionale della previdenza sociale (INPS) (C-168/19); IC – v – Istituto nazionale della previdenza sociale (INPS) (C-169/19), Italian case

### Question

Must Articles 18 TFEU and 21 TFEU be interpreted as precluding legislation of a Member State which provides that the income of a person resident in another Member State, who receives all of his or her income from the first Member State but who does not hold the nationality of the second Member State, is taxed only in the first Member State, that person being thereby excluded from the benefit of the tax advantages offered by the second Member State?

### Conclusion

Articles 18 TFEU and 21 TFEU do not preclude a tax regime resulting from a convention for the avoidance of double taxation concluded between two Member States, pursuant to which the powers of taxation of those States in relation to the taxation of retirement pensions are allocated according to whether the recipients of those pensions were in employment in the private sector or the public sector and, in the latter case, according to

whether or not they are nationals of the Member State of residence.

## ECJ 7 May 2020, case C-96/19 (Bezirkshauptmannschaft Tulln), Working Time, Miscellaneous

VO – v – Bezirkshauptmannschaft Tulln, Austrian case

No English translation has been made available yet. For now, the official case information is available on: <https://eur-lex.europa.eu/legal-content/NL/TXT/?uri=CELEX:62019CJ0096>

## ECJ 14 May 2020, case C-17/19 (Bouygues travaux publics and Others), Social Insurance

Bouygues travaux publics, Elco construct Bucarest, Welbond armatures – criminal proceedings, French case

### Question

Must Article 11(1)(a), Article 12a(2)(a) and (4)(a) of Regulation No 574/72 and Article 19(2) of Regulation No 987/2009 be interpreted as meaning that an E 101 Certificate, issued by the competent institution of a Member State, pursuant to Article 14(1)(a) or Article 14(2)(b) of Regulation No 1408/71, to workers employed in the territory of another Member State, and an A 1 Certificate, issued by that institution under Article 12(1) or Article 13(1) of Regulation No 883/2004, to such workers, are binding on the courts or tribunals of the latter Member State not only in the area of social security, but also in the area of employment law?

### Ruling

Article 11(1)(a), Article 12a(2)(a) and (4)(a) of Council Regulation (EEC) No 574/72 of 21 March 1972 laying down the procedure for implementing Regulation

(EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to their families moving within the Community, in the version amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Regulation (EC) No 647/2005 of the European Parliament and of the Council of 13 April 2005 and Article 19(2) 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, must be interpreted as meaning that an E 101 Certificate, issued by the competent institution of a Member State, under Article 14(1)(a) or Article 14(2)(b) of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to their families moving within the Community, in the version amended and updated by Regulation No 118/97, as amended by Council Regulation (EC) No 1606/98 of 29 June 1998, to workers employed in the territory of another Member State, and an A 1 Certificate, issued by that institution, under Article 12(1) or Article 13(1) 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, as amended by Regulation (EC) No 465/2012 of the European Parliament and of the Council of 22 May 2012, to such workers, are binding on the courts or tribunals of the latter Member State solely in the area of social security.

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## ECJ 4 June 2020, case C-828/18 (Trendsetteuse), Miscellaneous

Trendsetteuse SARL – v – DCA SARL, French case

No English translation has been made available yet. For now, the official case information is available on: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62018CJ0828>

## ECJ 4 June 2020, case C-588/18 (Fetico and others), Working Time, Paid Leave

Federación de Trabajadores Independientes de Comercio (Fetico), Federación Estatal de Servicios, Movilidad y Consumo de la Unión General de Trabajadores (FESMC-UGT), Federación de Servicios de Comisiones Obreras (CCOO) – v – Grupo de Empresas DIA SA, Twins Alimentación SA, Spanish case

### Legal background

Directive 2003/88 (the Working Time Directive) provides minimum safety and health requirements for the organisation of working time. This Directive sets minimum periods of daily and weekly rest as well as annual leave, breaks and maximum weekly working time. Article 5 introduces a weekly rest period, whereas Article 7 grants the right to paid annual leave.

Articles 37(1) and 38 of the Workers' Statute are Spanish laws that provide for minimum rest periods and annual leave which exceed the periods required under Articles 5 and 7 of Directive 2003/88. In addition, Article 37(3) of the Workers' Statute grants paid special leave to workers which enables them to meet specific needs or obligations such as the following: marriage, the birth of a child, hospitalisation, surgery, the death of a close relative, and the performance of representative trade union functions. Article 46 of the collective agreement of 13 July 2016 is a Spanish law that grants leave of a longer duration or in circumstances other than those specified in Article 37(3).

### Facts and initial proceedings

The request for preliminary ruling has been made in proceedings between, on the one hand, workers' trade unions, namely the *Federación de Trabajadores Independientes de Comercio* (Fetico), the *Federación Estatal de Servicios, Movilidad y Consumo de la Unión General de Trabajadores* (FESMC-UGT) and the *Federación de Servicios de Comisiones Obreras* (CCOO), and on the other hand, *Grupo de Empresas DIA SA* and *Twins Alimentación SA*, concerning disputes between employers and employees related to the conditions governing the application of paid special leave provided for in Article 46 of the collective agreement of 13 July 2016. That Article gives effect to the minimum requirements of Article 37(3) of the Workers' Statute and grants leave of