ECJ Court Watch – Landmark Ruling

ECJ 16 July 2020, Case C-610/18 (AFMB and Others), Social Insurance

AFMB Ltd. and Others – v – Raad van bestuur van de Sociale verzekeringsbank, Dutch case

Questions

Must Article 14(2)(a) of Regulation No 1408/71 and Article 13(1)(b) of Regulation No 883/2004 must be interpreted as meaning that the employer of an international long-distance lorry driver, for the purposes of those provisions, is the transport undertaking which recruited that driver, where that driver is in fact entirely at the disposal of that undertaking, which exercises actual authority over that driver and which bears, in reality, the relevant wage costs, or the undertaking with which that long-distance lorry driver has concluded an employment contract and which pays the driver his or her wages pursuant to an agreement concluded with the transport undertaking.

Ruling

Article 14(2)(a) of Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, in the version as amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Regulation (EC) No 631/2004 of the European Parliament and of the Council of 31 March 2004, and Article 13(1)(b)(i) 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 (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012, must be interpreted as meaning that the employer of an international long-distance lorry driver, for the purposes of those provisions, is the undertaking which has actual authority over that long-distance lorry driver, which bears, in reality, the costs of paying his or her wages, and which has the actual power to dismiss him or her, and not the undertaking with which that long-distance lorry driver has concluded an employment contract and which is formally named in that contract as being the employer of that driver.