conducting such examinations or tests is not such as to call into question the transparent, objective and impartial nature of those examinations or tests.

4. Articles 45, 49 and 56 TFEU must be interpreted as not precluding national legislation under which dockers, recognised as such in accordance with the statutory regime that was applicable to them before the entry into force of that legislation, retain, pursuant to that legislation, the status of recognised docker and are included in the quota of dockers provided for in that legislation.
5. Articles 45, 49 and 56 TFEU must be interpreted as not precluding national legislation which provides that the transfer of a docker to the quota of workers of a port area other than that in which he or she obtained his or her recognition is subject to conditions and arrangements laid down by a collective labour agreement, provided that those conditions and arrangements prove necessary and proportionate to the objective of ensuring safety in each port area, which is for the national court to determine.
6. Articles 45, 49 and 56 TFEU must be interpreted as not precluding national legislation which provides that logistics workers must hold a 'safety certificate', issued on presentation of their identity card and employment contract and whose issuance modalities and obtainment procedure are fixed by a collective labour agreement, provided that the conditions for the issue of such a certificate are necessary and proportionate to the objective of ensuring safety in port areas and the procedure prescribed for its obtainment does not impose unreasonable and disproportionate administrative burdens.



# ECJ 25 February 2021, Case C-804/19 (Markt24), Competency

BU – v – Markt24 GmbH, Austrian Case

## Summary

Section 5 of Chapter II of Regulation (EU) No. 1215/2012 also apply if an employee in one member state was recruited to work in another member state, even though that work was not performed for a reason attributable to that employer. They preclude the application of national rules of jurisdiction in respect of an action irrespective of whether those rules are more beneficial to the employee. Also, in this situation, the intention expressed by the parties to the contract as to the place of that performance is, in principle, the only element which makes it possible to establish a habitual place of work for the purposes of Article 21(1)(b)(i) of Regulation No. 1215/2012.

## Questions

1. Must the provisions laid down in Section 5 of Chapter II of Regulation No. 1215/2012, under the heading 'Jurisdiction over individual contracts of employment', be interpreted as applying to a legal action brought by an employee domiciled in a Member State against an employer domiciled in another Member State in the case where the contract of employment was negotiated and entered into in the Member State in which the employee is domiciled and provided that the place of performance of the work was located in the Member State of the employer, even though that work was not performed for a reason attributable to that employer?
2. Must the provisions set out in Section 5 of Chapter II of Regulation No. 1215/2012 be interpreted as precluding the application of national rules of jurisdiction in respect of an action such as that referred to in paragraph 28 of the present judgment, in a situation where it should be established that those rules are more beneficial to the employee?
3. Must Article 21 of Regulation No. 1215/2012 be interpreted as applying to an action such as that referred to in paragraph 28 of the present judgment. As appropriate, the referring court also requests the Court of Justice to specify the competent forum under that article?

## Ruling

1. The provisions set out in Section 5 of Chapter II of Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, under the heading 'Jurisdiction over individual contracts of employment', must be interpreted as applying to a legal action brought by an employee domiciled in a Member State against an employer domiciled in another Member State in the case where the contract of employment was negotiated and entered into in the Member State in which the employee is domiciled and provided that the place of performance of the work was located in the Member State of the employer, even though that work was not performed for a reason attributable to that employer.
2. The provisions set out in Section 5 of Chapter II of Regulation No. 1215/2012 must be interpreted as precluding the application of national rules of jurisdiction in respect of an action such as that referred to in point 1 of the operative part of the present judgment, irrespective of whether those rules are more beneficial to the employee.


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3. Article 21(1)(b)(i) of Regulation No. 1215/2012 must be interpreted as meaning that an action such as that referred to in point 1 of the operative part of the present judgment may be brought before the court of the place where or from where the employee was required, pursuant to the contract of employment, to discharge the essential part of his or her obligations towards his or her employer, without prejudice to point 5 of Article 7 of that regulation.

# ECJ 25 February 2021, Case C-940/19 (Les Chirurgiens-Dentistes de France and Others), Work and Residence Permit

Les chirurgiens-dentistes de France and Others – v – Ministre des Solidarités et de la Santé and Others, French case

## Summary

Member States may authorise partial access to certain healthcare professions subject to the automatic recognition of professional qualifications; however this applies to the professions but not the professionals benefiting from automatic recognition, who should have full access to the activities covered by the corresponding profession in the host Member State.

## Question

Must Article 4f(6) of Directive 2005/36 as amended be interpreted as precluding legislation which allows for the possibility of partial access to one of the professions covered by the mechanism for the automatic recognition of professional qualifications laid down by the provisions of Chapter III of Title III of that directive?

## Ruling

Article 4f(6) of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, as amended by Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013, must be interpreted as not precluding legislation allowing for the possibility of partial access to one of the professions covered by the mechanism for the automatic recognition of professional qualifications laid down by the provisions of Chapter III of Title III of that directive, as amended.

# ECJ 25 February 2021, Case C-129/20 (Caisse pour l'avenir des enfants (Emploi à la naissance)), Maternity and Parental Leave

XI – v – Caisse pour l'avenir des enfants, Luxembourg case

## Summary

While Member States can require that a parent has been uninterruptedly employed during the year prior to the start of the parental leave, they cannot require that s/he was employed during when the child was born or adopted.



## Question

Must clauses 1.1, 1.2, 2.1 and 2.3(b) of the framework agreement on parental leave, annexed to Directive 96/34, be interpreted as precluding the grant of parental leave from being made subject to the twofold condition that the worker is lawfully employed in a workplace and affiliated in that regard to the social security scheme concerned, first, without interruption for a period of at least 12 months immediately preceding the start of that parental leave and, secondly, at the time of the birth of the child or children or of the reception of the child or children to be adopted.

## Ruling

Clauses 1.1, 1.2, 2.1 and 3.1(b) of the Framework Agreement on parental leave (revised) of 18 June 2009, annexed to Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC, must be interpreted as not precluding national legislation which makes the grant of a right to parental leave subject to the condition that the parent concerned is employed without interruption for a

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