

the general cross-industry organisations (ETUC, UNICE and CEEP) annexed to Council Directive 1999/70 of 28 June 1999 be interpreted as meaning that, for the purposes of consolidating a personal grade, a period of service as an interim civil servant undertaken by a permanent civil servant before he or she obtained permanent status must be accorded the same treatment as service undertaken by another career civil servant?

2 Must Clause 4(1) of the framework agreement on fixed-term contracts concluded on 18 March 1999 between the general cross-industry organisations (ETUC, UNICE and CEEP) annexed to Council Directive 1999/70 of 28 June 1999 be interpreted as meaning that both (i) the fact that the period in question has already been taken into account to enable the individual to become a career civil servant and (ii) the design of the civil service career progression arrangements established in national legislation, are objective grounds that justify why a period of service as an interim civil servant undertaken by a permanent civil servant before he or she obtained permanent status should not be taken into account for the purposes of consolidating the individual's personal grade?

Case C-199/21, Social Insurance, Pension

DN – v – Finanzamt Österreich, reference lodged by the Bundesfinanzgericht (Austria) on 30 March 2021

Question 1, referred together with Question 2:

Is the phrase 'Member State competent for his/her pension' in the second sentence of Article 67 of Regulation (EC) No 883/2004, as amended by Regulation (EU) No 465/2012 to be interpreted as meaning that it refers to the Member State previously competent for family benefits as the State of employment and now required to pay an old-age pension, the right to which is based on the freedom of movement of workers previously exercised in its territory?

Question 2:

Is the phrase 'rights available on the basis of receipt of pensions' in Article 68(1)(b)(ii) of Regulation No 883/2004 to be interpreted as meaning that the right to family benefits is to be regarded as being available on the basis of receipt of pensions if, first, the laws of the EU OR of the Member State governing the right to family benefits provide for receipt of pensions as a criterion and, second and additionally, the criterion of receipt of pensions is fulfilled in fact at a factual level, meaning that 'simple receipt of pensions' does not fall under Article 68(1)(b)(ii) of Regulation No 883/2004 and the Member State concerned is not to be regarded as the 'State of the pension' under EU law?

Question 3, referred in the alternative to Questions 1 and 2, if simple receipt of pensions suffices for the purpose of interpretation of the concept of the State of the pension:

In the case of receipt of an old-age pension, the right to which [accrued] under the migrant workers regulations and, prior to that, as a result of the pursuit of an activity as an employed person in a Member State in a period when neither the State of residence alone nor both States were Member States of the EU or the European Economic Area, is the phrase 'a differential supplement shall be provided, if necessary' in the second clause of the second sentence of Article 68(2) of Regulation No 883/2004 to be understood, in light of the judgment of 12 June 1980, Laterza, 733/79, as meaning that EU law guarantees family benefits to the maximum possible extent even in the case of receipt of pensions?

Question 4:

Is the third sentence of Article 60(1) of Regulation (EC) No 987/2009 to be interpreted as meaning that it precludes Paragraph 2(5) of the FLAG 1967, according to which, in the case of divorce, the right to the family allowance and tax credit for the child remains vested in the parent who is the head of the household but who has not made an application either in the State of residence or in the State of the pension for as long as the adult child in education is a member of his or her household, meaning that the other parent living as a pensioner in Austria, who in fact bears the entire cost of supporting the child, can exercise the right to the family allowance and tax credit for the child against the institution of the Member State whose laws take precedence based directly on the third sentence of Article 60(1) of Regulation No 987/2009?

Question 5, referred together with Question 4:

Is the third sentence of Article 60(1) of Regulation No 987/2009 to be further interpreted as meaning that it is also necessary, in order to substantiate the standing of the EU worker as a party in the Member State family benefits procedure, that he/she is mainly responsible for the cost of maintenance within the meaning of Article 1(i)(3) of Regulation No 883/2004?

Question 6:

Are the provisions governing the dialogue procedure in Article 60 of Regulation No 987/2009 to be interpreted as meaning that that procedure must be conducted by the institutions of the Member States involved not only where family benefits are granted, but also where family benefits are recovered?