Case C-404/21, Pension

WP – v – Instituto nazionale della previdenza sociale, Repubblica italiana, reference lodged by the Tribunale Ordinario di Asti (Italy) on 13 January 2021

1. Must Articles 45 and 48 TFEU, Article 4 TEU, Article 11 of Annex VIII to the Staff Regulations of Officials [of the European Union] and Article 8 of Annex IIIa to the Conditions of Employment for Staff of the European Central Bank be interpreted as precluding a set of national rules or a national administrative practice which does not allow a worker who is a national of a Member State who has paid contributions to the national social security institution and who currently works for an EU institution, such as the ECB, to transfer to the pension scheme of that institution the pension contributions credited to the social security scheme of his or her own State?
2. Based on the answer to the question set out above, must it be possible to exercise the right to transfer contributions even in the absence of national implementing legislation or a specific agreement between the Member State of which the worker is a national or the worker's pension institution, on the one hand, and the EU institution, on the other?

Case C-410/21, Social Insurance

FU, DRV Intertrans BV, reference lodged by the Hof van Cassatie (Belgium) on 5 July 2021

1. Must Article 5 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 to be interpreted as meaning that:
   if, following a request by the authorities of the Member State of employment for the retroactive withdrawal of the 'Al' certificates, the authorities of the Member State which issued those A1 certificates confine themselves to withdrawing those certificates provisionally, stating that they no longer have any binding force, so that the criminal proceedings in the Member State of employment can continue, and that a final decision will only be taken by the Member State that issued the A1 certificates once the criminal proceedings in the Member State of employment have been finally concluded, the presumption attached to the Al certificates that the workers concerned are properly affiliated to the social security system of that issuing Member State ceases to apply and those Al certificates are no longer binding on the authorities of the Member State of employment;
2. if the answer to that question is in the negative, the authorities of the Member State of employment may, in the light of the case-law of the Court of Justice of the European Union, disregard the Al certificates at issue on the grounds of fraud?
3. Must Article 13(1)(b)(i) of Regulation (EC) No 883/2004 of 29 April 2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, Articles (3)(1)(a) and 11(1) of Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC and Article (4)(1)(a) of Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market be interpreted as meaning that it necessarily follows from the fact that an undertaking which obtains a road transport authorisation in a Member State of the European Union pursuant to Regulation (EC) No 1071/2009 and Regulation (EC) No 1072/2009 and which therefore must have an effective and stable establishment in that Member State, that it has been irrefutably demonstrated that its registered office is established in that Member State, as referred to in Article 13(1) of the aforementioned Regulation No 883/2004/EC, for the purposes of determining the applicable social security system and that the authorities of the Member State of employment are bound by that determination?

Case C-427/21, Temporary Agency Work

LD – v – ALB FILS KLINIKEN GmbH, reference lodged by the Bundesarbeitsgericht (Germany) on 14 July 2021

1. Do Articles 1(1) and (2) of Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work apply if – as specified in Paragraph 4(3) of the Tarifvertrag für den Öffentlichen Dienst (collective agreement for the public service, 'the TVöD') – an employee's duties are assigned to a third party and this employee must, at the request of his or her current employer while the existing employment relationship with the latter continues, perform his or her contractually agreed work for said third party on a permanent basis and accept technical and organisational instructions from the third party?

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2. If Question 1 is answered in the affirmative: Is it consistent with the protective purpose of Directive 2008/104/EC to exclude 'supply of staff' within the meaning of Paragraph 4(3) of the TVöD from the scope of the national protective provisions for personnel leasing, as point 2b of Paragraph 1(3) of the Gesetz zur Regelung der Arbeitnehmerüberlassung (Law on personnel leasing, 'the AÜG') does, meaning that these protective provisions are not applicable to cases involving supply of staff?

Case C-450/21, Fixed-Term Work

UC – v – Ministero dell'Istruzione, reference lodged by the Tribunale ordinario di Vercelli (Italy) on 20 July 2021

1. Is clause 4(1) of the framework agreement on fixed-term work concluded on 18 March 1999, annexed to Council Directive 1999/70/EC of 28 June 1999, to be interpreted as precluding national legislation, such as that contained in Article 1(121) of legge n. 107/2015 (Law No 107/2015), which expressly excludes the recognition and payment of additional remuneration of EUR 500 for teaching staff hired by the Ministero dell'Istruzione (Italian Ministry of Education) on fixed-term contracts, since such additional remuneration is solely for the training and continuous professional development of staff hired on contracts of indefinite duration?
2. Is additional remuneration of EUR 500 per year, such as that provided for in Article 1(121) of Law No 107/2015 [and Article] 2 of decreto legge n. 22/2020 (Decree-Law No 22/2020), ('the teacher's electronic card'), which is intended to be used to purchase training materials and services aimed at developing professional skills and to purchase connectivity services, to be considered covered by the employment conditions referred to in clause 4(1) of the framework agreement on fixed-term work concluded on 18 March 1999?
3. In the event that this allowance is deemed not to be covered by the abovementioned employment conditions, is clause 6 of the framework agreement on fixed-term work, concluded on 18 March 1999, in conjunction with Article 150 [TEC], Article 14 of the Charter of Fundamental Rights of the European Union and Article 10 of the European Social Charter, to be interpreted as precluding a provision of national law, such as that contained in Article 1(121) of Law No 107/2015, which gives only workers with an employment contract or relationship of indefinite duration the right to receive funding for training, despite the fact that they are in a comparable situation to that of fixed-term workers?
4. Within the scope of Directive 1999/70/EC, are the general principles of [European Union] law presently in force on equality, equal treatment and non-discrimination in matters of employment, enshrined in Articles 20 and 21 of the Charter of Fundamental Rights of the European Union, in Directives 2000/43/EC and 2000/78/EC and in clause 4 of the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP, put into effect by Directive [1]999/70/EC, to be interpreted as precluding a legal provision such as the one contained in Article 1(121) of Law No 107/2015, which allows teachers who are in a comparable situation to permanent teachers, as regards the type of work and employment conditions, having performed the same duties and possessing the same disciplinary, pedagogical, methodological, organisational, interpersonal and research skills, obtained through teaching experience recognised as equivalent under the same national legislation, to be treated less favourably and to be subjected to discrimination regarding their employment conditions and access to training, solely because they have a fixed-term employment relationship?
5. Is clause 6 of the framework agreement on fixed-term work concluded on 18 March 1999, read in the light of and in accordance with the general principles of [European Union] law presently in force on equality, equal treatment and non-discrimination in matters of employment and the fundamental rights enshrined in Articles 14, 20 and 21 of the Charter of Fundamental Rights of the European Union, to be interpreted as precluding a provision of national law, such as that contained in Article 1(121) of Law No 107/2015, which gives only workers with an employment relationship of indefinite duration access to training?

Case C-453/21, Privacy, Unfair Dismissal

X-FAB Dresden GmbH & Co. KG – v – FC, reference lodged by the Bundesarbeitsgericht (Germany) on 21 July 2021

1. Is the second sentence of Article 38(3) of Regulation (EU) 2016/679 (General Data Protection Regulation; 'the GDPR') to be interpreted as precluding a provision in national law, such as, in the present case, Paragraph 38(1) and (2) in conjunction with the first sentence of Paragraph 6(4) of the Bundesdatenschutzgesetz (Federal Law on data protection; 'the BDSG'), which makes dismissal of the data protection officer by the controller, who is his employer, subject to the conditions set out therein, irrespective of whether such dismissal relates to the performance of his tasks?

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