# Cases C-524/21 and C-525/21, Insolvency

IG – v – Agenția Județeană de Ocupare a Forței de Muncă Ilfov and Agenția Județeană de Ocupare a Forței de Muncă Ilfov – v – IM, reference lodged by the Curtea de Apel București (Romania) on 24 August 2021

1. Having regard to the autonomous concept of a 'state of insolvency', are Articles 1(1) and 2(1) of Directive 2008/94 to be interpreted as precluding national legislation transposing the directive – Article 15(1) and (2) of *Legea nr. 200/2006 privind constituirea și utilizarea Fondului de garantare pentru plata creanțelor salariale* (Law No 200/2006 on the establishment and use of the Guarantee Fund for the Payment of Salary Claims), in conjunction with Article 7 of the *Normele metodologice de aplicare a Legii nr. 200/2006* (Methodological rules for the application of Law No 200/2006) – as interpreted by the *Înalta Curte de Casație și Justiție, Completul pentru dezlegarea unor chestiuni de drept* (High Court of Cassation and Justice, Section for the resolution of questions of law), in Decision No 16/2018, according to which the period of three months for which the Guarantee Fund may take over and pay the salary debts of an insolvent employer refers exclusively to the date on which the insolvency proceedings are opened?
2. Are [the second paragraph of] Article 3 and Article 4(2) of Directive 2008/94 to be interpreted as precluding Article 15(1) and (2) of Law No 200/2006 on the establishment and use of the Guarantee Fund for the Payment of Salary Claims, as interpreted by the High Court of Cassation and Justice in Decision No 16/2018, according to which the maximum period of three months for which the Guarantee Fund may take over and pay the salary debts of an insolvent employer falls within the reference period spanning the three months immediately preceding the opening of the insolvency proceedings and the three months immediately after the opening of the insolvency proceedings?
3. Is it consistent with the social objective of Directive 2008/94 and with Article 12(a) thereof for a national administrative practice to rely on a decision of the *Curtea de Conturi* (Court of Auditors) and, in the absence of any specific national rules requiring restitution by the employee, to recover from the employee sums allegedly paid in respect of periods not covered by the legislation or which were claimed after expiry of the limitation period?
4. In the interpretation of the concept of 'abuse' in Article 12(a) of Directive 2008/94, does the act of recovering from the employee, with the stated aim of complying with the general limitation period, salary entitlements paid by the Fund through the intermediary of the liquidator constitute a sufficient, objective justification?
5. Are an interpretation and a national administrative practice whereby salary debts which an employee is required to repay are treated like tax debts, bearing interest and late-payment penalties, consistent with the provisions and objective of the directive?



# Case C-560/21, Privacy

ZS – v – Zweckverband 'Kommunale Informationsverarbeitung Sachsen' KISA, a body governed by public law, reference lodged by the Bundesarbeitsgericht (Germany) on 13 September 2021

1. Is the second sentence of Article 38(3) of Regulation (EU) 2016/679 (the General Data Protection Regulation; 'the GDPR') to be interpreted as precluding a provision of national law, such as, in the present case, the first sentence of Paragraph 6(4) of the *Bundesdatenschutzgesetz* (Federal Law on data protection), which makes dismissal of the data protection officer by the controller, who is his or her employer, subject to the conditions set out therein, irrespective of whether such dismissal relates to the performance of his or her tasks?
2. If the answer to the first question is in the affirmative: 2Does the second sentence of Article 38(3) of the GDPR have a sufficient legal basis, in particular in so far as the provision covers data protection officers who have an employment relationship with the controller?


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