

Case C-731/21, Social Insurance

GV – v – Caisse nationale d'assurance pension, reference lodged by the Cour de cassation du Grand-Duché de Luxembourg (Luxembourg) on 1 December 2021

Does European Union law, in particular Articles 18, 45 and 48 of the Treaty on the Functioning of the European Union and Article 7(2) of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union, preclude provisions of the law of a Member State, such as Article 195 of the Luxembourg Social Security Code and Articles 3, 4 and 4-1 of the amended Law of 9 July 2004 on the legal effects of certain partnerships, which make the grant, to the surviving partner of a partnership properly entered into and registered in the Member State of origin, of a survivor's pension, due as a result of the exercise by the deceased partner of a professional activity in the host Member State, subject to the condition that the partnership was recorded in a register kept by that State for the purposes of verifying compliance with the substantive conditions required by the law of that Member State in order to recognise a partnership and ensure its effectiveness vis-à-vis third parties, whereas the grant of a survivor's pension to the surviving partner of a partnership entered into in the host Member State is subject to the sole condition that the partnership has been properly entered into and registered there?

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Case C-731/21, Miscellaneous, Fundamental Rights

DM – v – Azienda Ospedale-Università di Padova, reference lodged by the Tribunale ordinario di Padova (Italy) on 13 December 2021

- Can the conditional authorisations of the Commission, issued following a favourable opinion of the EMA, for vaccines currently on the market be considered still valid for the purposes of Article 4 of Regulation No 507/2006, in the light of the fact that in several Member States (for example in Italy, AIFA (Agenzia italiana del farmaco; Italian Medicines Agency) approval of the method of treatment with monoclonal and/or antiviral antibodies) effective alternative COVID SARS 2 treatments have been approved, which, the applicant argues, are less hazardous for human health, and also in the light of Articles 3 and 35 of the Nice Charter?
- In the case of healthcare workers on whom the law of the Member State in question has imposed compulsory vaccination, can vaccines approved by the Commission conditionally within the meaning of Regulation No 507/2006 be used for the purposes of compulsory vaccination even if the healthcare workers in question have already been infected and thus have already acquired natural immunity and can therefore apply for a derogation from the obligation?
- In the case of healthcare workers on whom the law of the Member State in question has imposed compulsory vaccination, can vaccines approved by the Commission conditionally within the meaning of Regulation No 507/2006 be used for the purposes of compulsory vaccination, without any procedure for precautionary purposes, or may those healthcare workers oppose inoculation, in view of the conditionality of the authorisation, at least until the deciding health authority has ruled out, in the circumstances concerned and with reasonable certainty, that, on the one hand, there are no contraindications to that effect and, on the other, that the benefits to be gained from them outweigh those gained from other medicinal products currently available? In that case, must the deciding health authority act in accordance with Article 41 of the Nice Charter?
- In the case of a vaccine authorised conditionally by the Commission, can a failure by healthcare personnel to comply with the obligation under the law of the State to be vaccinated automatically entail suspension from work without pay or must provision be made for a graduated scale of penalties in accordance with the fundamental principle of proportionality?
- Where national law permits forms of *dépeçage* [attribution of different tasks to a worker], must the possibility of alternative deployment of the worker concerned be examined in accordance with the principle of *audi alteram partem* laid down in Article 41 of the Nice Charter, with a consequent right to compensation in the event of failure to do so?
- Is national legislation, such as that laid down in Article 4(11) of Decree-Law No 44/2021, which allows healthcare personnel who have been declared exempt from the obligation to be vaccinated to carry on their activities in contact with patients, albeit in compliance with the safety measures imposed by the legislation in force, whereas a healthcare worker who, like the applicant – being naturally immune following infection – does not wish to be vaccinated without thorough medical examinations, is automatically suspended from all professional activity and without pay, lawful in the light of Regulation 2021/953, which prohibits any discrimination between those who have taken the vaccine and those who have been unwilling or unable to take it for medical reasons?
- Is legislation of a Member State which provides for a compulsory Covid vaccine – conditionally author-