

Defendant: DB Vertrieb GmbH

Questions referred

1. Is Article 2(6) of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights⁽¹⁾ to be interpreted to mean that it also covers contracts by means of which the trader is not directly obliged to supply a service, but rather the consumer acquires the right to receive a discount for services ordered in the future?

If Question 1 is answered in the affirmative:

2. Is the exception for 'contracts ... for passenger transport services' in Article 3(3)(k) of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights to be interpreted to mean that it also applies to situations in which the consumer does not directly receive a passenger transport service as consideration, but rather acquires the right to receive a discount for contracts for transport services to be concluded in the future?

⁽¹⁾ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ 2011 L 304, p. 64).

Request for a preliminary ruling from the Centrale Raad van Beroep (Netherlands) lodged on 25 September 2018 — AFMB Ltd and Others v Raad van bestuur van de Sociale verzekeringsbank

(Case C-610/18)

(2018/C 455/31)

Language of the case: Dutch

Referring court

Centrale Raad van Beroep

Parties to the main proceedings

Appellants: AFMB Ltd and Others

Respondent: Raad van bestuur van de Sociale verzekeringsbank

Questions referred

1. A. Must Article 14(2)(a) of Regulation (EEC) No 1408/71⁽¹⁾ be interpreted as meaning that, in circumstances such as those of the cases in the main proceedings, an international truck driver in paid employment is to be regarded as being a member of the driving staff of:
 - (a) the transport company which has recruited the person concerned, to which the person concerned is de facto fully available for an indefinite period, which exercises effective control over the person concerned and which actually bears the wage costs; or
 - (b) the company which has formally concluded an employment contract with the truck driver and which, by agreement with the transport company referred to under (a), paid the worker a salary and paid contributions in respect thereof in the Member State where that company has its registered office and not in the Member State where the transport company referred to in (a) has its registered office;
- (c) both the company under (a) and the company under (b)?

B. Must Article 13(1)(b) of Regulation (EC) No 883/2004⁽²⁾ be interpreted as meaning that, in circumstances such as those of the cases in the main proceedings, the employer of an international truck driver in paid employment is considered to be:

- (a) the transport company which has recruited the person concerned, to which the person concerned is de facto fully available for an indefinite period, which exercises effective control over the person concerned and which actually bears the wage costs; or
- (b) the company which has formally concluded an employment contract with the truck driver and which, by agreement with the transport company referred to under (a), paid the worker a salary and paid contributions in respect thereof in the Member State where that company has its registered office and not in the Member State where the transport company referred to in (a) has its registered office;
- (c) both the company under (a) and the company under (b)?

2. In the event that, in circumstances such as those of the cases in the main proceedings, the employer is regarded as being the undertaking referred to in Question 1A(b) and in Question 1B(b):

Do the specific conditions under which employers, such as temporary employment agencies and other intermediaries, can invoke the exceptions to the country-of-employment principle set out in Article 14(1)(a) of Regulation (EEC) No 1408/71 and in Article 12 of Regulation (EC) No 883/2004 also apply by analogy, wholly or in part, to the cases in the main proceedings for the purposes of Article 14(2)(a) of Regulation (EEC) No 1408/71 and of Article 13(1)(b) of Regulation (EC) No 883/2004?

3. In the event that, in circumstances such as those of the cases in the main proceedings, the employer is regarded as being the company referred to in Question 1A(b) and in Question 1B(b), and Question 2 is answered in the negative:

Do the facts and circumstances set out in this request constitute a situation that is to be interpreted as an abuse of EU law and/or an abuse of EFTA law? If so, what is the consequence thereof?

⁽¹⁾ Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (OJ, English Special Edition 1971(II), p. 416).

⁽²⁾ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1).

**Request for a preliminary ruling from the Juzgado de Primera Instancia n.º 3 bis de Albacete (Spain)
lodged on 2 October 2018 — The borrowers v Globalcaja, S.A.**

(Case C-617/18)

(2018/C 455/32)

Language of the case: Spanish

Referring court

Juzgado de Primera Instancia n.º 3 bis de Albacete

Parties to the main proceedings

Applicants: The borrowers

Defendant: Globalcaja, S.A.

Questions referred

1. Does the effect of 'shall... not be binding' in Article 6(1) of Directive 93/13⁽¹⁾ mean that a trader and a consumer, by means of a private agreement, cannot modify, by moderating it, a term that does not meet the requirement under Article 4(2) that it must be drafted in plain intelligible language, whether by reducing the amount under that term or by replacing it with a different term that is less detrimental to the consumer?