

centre is the place of the registered office, it is necessary that an overall assessment of all the relevant factors allows it to be established, in a manner ascertainable by third parties, that the actual centre of management and supervision of the company concerned by the joinder action is situated in the Member State where the initial insolvency proceedings were opened.

(¹) OJ C 161, 19.6.2010.

Judgment of the Court (Third Chamber) of 15 December 2011 (reference for a preliminary ruling from the Högsta förvaltningsdomstolen (formerly Regeringsrätten) — Sweden) — Försäkringskassan v Elisabeth Bergström

(Case C-257/10) (¹)

(Migrant workers — Social security — Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons — Regulation (EEC) No 1408/71 — National of a Member State who has been pursuing a professional activity in Switzerland — Return to country of origin)

(2012/C 39/05)

Language of the case: Swedish

Referring court

Högsta förvaltningsdomstolen (formerly Regeringsrätten)

Parties to the main proceedings

Applicant: Försäkringskassan

Defendant: Elisabeth Bergström

Re:

Reference for a preliminary ruling — Högsta förvaltningsdomstolen (formerly Regeringsrätten) — Interpretation of Articles 3(1) and 72 of 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 1971 L 149, p. 2), as amended by Council Regulation (EEC) No 3427/89 of 30 October 1989 (OJ 1989 L 331, p. 1) and of the Agreement on the free movement of persons between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other (OJ 2002 L 114, p. 6) — Right to parental benefit (föräldrapenning) — National legislation making the right to an amount of family benefit higher than the basic guaranteed amount conditional upon completion of a period of affiliation with a sickness insurance scheme for a specified period — Amount of family benefit determined according to employment income earned in that Member State — Person who resides in a Member State (Sweden), but who has completed the entire reference period used for fixing

the higher amount of family benefit as a member of a sickness insurance scheme in another State (Switzerland)

Operative part of the judgment

1. Article 8(c) of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, signed at Luxembourg on 21 June 1999, and Article 72 of 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, as amended by Regulation (EC) No 1386/2001 of the European Parliament and of the Council of 5 June 2001, must be interpreted as meaning that, where the legislation of a Member State makes the award of a family benefit — such as that at issue in the case before the referring court — conditional upon completion of periods of insurance, employment or self-employment, the institution of that Member State which is competent to make such an award must take into account for those purposes periods completed in their entirety in the Swiss Confederation.
2. Article 8(a) of that Agreement, and Article 3(1), Article 23(1) and (2) and Article 72 of Regulation No 1408/71, as amended by Regulation No 1386/2001, and paragraph 1 of point N of Annex VI thereto must be interpreted as meaning that, where the amount of a family benefit, such as that at issue in the case before the referring court, falls to be determined in accordance with the rules governing sickness benefit, that amount — awarded to a person who has completed in full the necessary employment periods for acquiring that right in the territory of the other Contracting Party — must be calculated by taking into account the income of a person who has comparable experience and qualifications and who is similarly employed in the Member State in which that benefit is sought.

(¹) OJ C 195, 17.7.2010.

Judgment of the Court (Fourth Chamber) of 15 December 2011 (reference for a preliminary ruling from the Hof van Cassatie van België (Belgium)) — Jan Voogsgeerd v Navimer SA

(Case C-384/10) (¹)

(Rome Convention on the law applicable to contractual obligations — Contract of employment — Choice made by the parties — Mandatory rules of the law applicable in the absence of choice — Determination of that law — Employee carrying out his work in more than one Contracting State)

(2012/C 39/06)

Language of the case: Dutch

Referring court

Hof van Cassatie van België