

2. The provisions of Directive 2002/46 and those of the TFEU relating to the free movement of goods must be interpreted as meaning that the maximum amounts referred to in Article 5 of that directive must be set on a case-by-case basis and taking into account all of the elements in Article 5(1) and (2) of that directive, in particular of the upper safe levels established, with respect to the nutrients at issue, after a comprehensive scientific assessment of the risks for public health, based not on general or hypothetical considerations, but on relevant scientific data. It is for the referring court to assess whether the method for the setting of those amounts at issue in the main proceedings complies with those requirements.
3. The provisions of Directive 2002/46 and those of the TFEU relating to the free movement of goods must be interpreted as precluding that the scientific assessment of the risks referred to in Article 5(1)(a) of that directive, prior to the establishment of upper safe limits which must in particular be taken into account in order to set the maximum amounts referred to in Article 5 thereof, be carried out solely on the basis of national scientific opinions, even though recent international scientific opinions concluding in favour of the possibility of setting higher limits are also available on the date of the adoption of the measure at issue.

<sup>(1)</sup> OJ C 90, 7.3.2016.

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**Judgment of the Court (Third Chamber) of 27 April 2017 (request for a preliminary ruling from the Bundesarbeitsgericht — Germany) — Asklepios Kliniken Langen-Seligenstadt GmbH v Ivan Felja (C 680/15), Asklepios Dienstleistungsgesellschaft mbH v Vittoria Graf (C 681/15)**

**(Joined Cases C-680/15 and C-681/15) <sup>(1)</sup>**

**(References for a preliminary ruling — Transfer of undertakings — Safeguarding of employees' rights — Directive 2001/23/EC — Article 3 — Contract of employment — Legislation of a Member State authorising the incorporation of clauses referring to collective labour agreements after the date of the transfer — Effects with regard to the transferee)**

(2017/C 202/08)

Language of the case: German

**Referring court**

Bundesarbeitsgericht

**Parties to the main proceedings**

*Applicants:* Asklepios Kliniken Langen-Seligenstadt GmbH (C-680/15), Asklepios Dienstleistungsgesellschaft mbH (C-681/15)

*Defendants:* Ivan Felja (C 680/15), Vittoria Graf (C-681/15)

**Operative part of the judgment**

Article 3 of Council Directive 2001/23/EC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses and Article 16 of the Charter of Fundamental Rights of the European Union, must be interpreted as meaning that, in the case of a transfer of a business, the continued observance of the rights and obligations of the transferor arising from a contract of employment, extends to the clause which the transferor and the worker agreed pursuant to the principle of freedom of contract, pursuant to which their employment relationship is governed not only by the collective agreement in force on the date of the transfer, but also by agreements subsequent to the transfer and which supplement it, amend it or replace it, if the national law provides for the possibility for the transferee to make adjustments both consensually and unilaterally.

<sup>(1)</sup> OJ C 118, 4.4.2016.