

## V

(Announcements)

## COURT PROCEEDINGS

## COURT OF JUSTICE

**Judgment of the Court (Grand Chamber) of 2 April 2020 (requests for a preliminary ruling from the Tribunal de grande instance de Bobigny and Cour de cassation, France) — Caisse de retraite du personnel navigant professionnel de l'aéronautique civile (CRPNPAC) v Vueling Airlines SA (C-370/17), Vueling Airlines SA v Jean-Luc Poignant (C-37/18)**

(Joined Cases C-370/17 and C-37/18) <sup>(1)</sup>

*(Reference for a preliminary ruling — Migrant workers — Social security — Regulation (EEC) No 1408/71 — Legislation applicable — Article 14(1)(a) — Posted workers — Article 14(2)(a)(i) — Person normally employed in the territory of two or more Member States and employed by a branch or a permanent representation that an undertaking has in the territory of a Member State other than that where it has its registered office — Regulation (EEC) No 574/72 — Article 11(1)(a) — Article 12a(1a) — E 101 certificate — Binding effect — Certificate fraudulently obtained or relied on — Power of the courts of the host Member State to make a finding of fraud and to disregard the certificate — Article 84a(3) of Regulation No 1408/71 — Cooperation between competent institutions — Authority in civil proceedings of res judicata in criminal proceedings — Primacy of EU law)*

(2020/C 222/02)

Language of the case: French

**Referring courts**

Tribunal de grande instance de Bobigny and Cour de cassation (France)

**Parties to the main proceedings**

*Applicants:* Caisse de retraite du personnel navigant professionnel de l'aéronautique civile (CRPNPAC) (C-370/17), Vueling Airlines SA (C-37/18)

*Defendants:* Vueling Airlines SA (C-370/17), Jean-Luc Poignant (C-37/18)

**Operative part of the judgment**

1. Article 11(1)(a) of Council Regulation (EEC) No 574/72 of 21 March 1972 laying down the procedure for implementing 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, in the version as amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Regulation (EC) No 647/2005 of the European Parliament and of the Council of 13 April 2005, must be interpreted as meaning that a court or tribunal of a Member State, seised of an action in legal proceedings brought against an employer with respect to facts that might indicate that E 101 certificates, issued under Article 14(1)(a) of Council Regulation (EEC) No 1408/71 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, in the version amended and updated by Regulation No 118/97, as amended by Regulation (EC) No 631/2004 of the European Parliament and of the Council of 31 March 2004, were fraudulently obtained and relied on with respect to workers employed in that Member State, can make a finding of fraud and consequently disregard those certificates only if it has satisfied itself that:

- first, the procedure laid down in Article 84a(3) of that regulation was promptly initiated and the competent institution of the issuing Member State was thus put in a position to review the grounds for the issue of those certificates in the light of the concrete evidence submitted by the competent institution of the host Member State that indicates that those certificates were fraudulently obtained or relied on, and
  - second, the competent institution of the issuing Member State has failed to undertake such a review and has failed to make a decision, within a reasonable time, on that evidence, cancelling or withdrawing the certificates at issue, where appropriate;
2. Article 11(1) of Regulation No 574/72, in the version amended and updated by Regulation No 118/97, as amended by Regulation No 647/2005, and the principle of the primacy of EU law must be interpreted as precluding, in a situation where an employer has, in the host Member State, acquired a criminal conviction based on a definitive finding of fraud made in breach of EU law, a civil court or tribunal of that Member State, bound by the principle of national law that a decision which has the authority of *res judicata* in criminal proceedings also has that authority in civil proceedings, from holding that employer to be liable, solely by reason of that criminal conviction, to pay damages intended to provide compensation to workers or a pension fund of that Member State who claim to be affected by that fraud.

(<sup>1</sup>) OJ C 283, 28.8.2017.  
OJ C 112, 26.3.2018.

**Judgment of the Court (Third Chamber) of 2 April 2020 — European Commission v Republic of Poland, Commission v Hungary, Commission v Czech Republic**

(Joined Cases C-715/17, C-718/17 and C-719/17) (<sup>1</sup>)

*(Failure of a Member State to fulfil obligations — Decisions (EU) 2015/1523 and (EU) 2015/1601 — Article 5(2) and 5(4) to 5(11) of each of those decisions — Provisional measures in the area of international protection for the benefit of Italy and of Greece — Emergency situation characterised by a sudden influx of third-country nationals into certain Member States — Relocation of those nationals to other Member States — Relocation procedure — Obligation on the Member States to indicate at regular intervals, and at least every three months, the number of applicants for international protection who can be relocated swiftly to their territory — Consequent obligations leading to actual relocation — Interests of the Member States linked to national security and public order — Possibility for a Member State to rely on Article 72 TFEU in order not to apply EU legal acts of a binding nature)*

(2020/C 222/03)

Languages of the cases: Czech, Hungarian and Polish

**Parties**

(Case C-715/17)

*Applicant:* European Commission (represented by: Z. Malůšková, A. Stobiecka-Kuik, G. Wils and A. Tokár, acting as Agents)

*Defendant:* Republic of Poland (represented by: E. Borawska-Kędzierska and B. Majczyna, acting as Agents)

*Interveners in support of the Republic of Poland:* Czech Republic (represented by: M. Smolek, J. Vlácil, J. Pavliš and A. Brabcová, acting as Agents), Hungary (represented by: M.Z. Fehér, acting as Agent)

(Case C-718/17)

*Applicant:* European Commission (represented by: Z. Malůšková, A. Stobiecka-Kuik, G. Wils and A. Tokár, acting as Agents)

*Defendant:* Hungary (represented by: M.Z. Fehér and G. Koós, acting as Agents)