

Request for a preliminary ruling from the Centrale Raad van Beroep (Netherlands) lodged on 8 August 2017 — Raad van bestuur van de Sociale Verzekeringsbank v D. Balandin and Others

(Case C-477/17)

(2017/C 357/05)

Language of the case: Dutch

Referring court

Centrale Raad van Beroep

Parties to the main proceedings

Applicant: Raad van bestuur van de Sociale Verzekeringsbank

Defendant: D. Balandin, I. Lukachenko, Holiday on Ice Services B.V.

Question referred

Must Article 1 of Regulation No 1231/2010 ⁽¹⁾ be interpreted as meaning that third-country nationals, who live outside the European Union, but who work in various Member States on a temporary basis for an employer who is established in the Netherlands, may invoke (Title II of) Regulation No 883/2004 ⁽²⁾ and Regulation No 987/2009 ⁽³⁾?

⁽¹⁾ Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality (OJ 2010 L 344, p. 1).

⁽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).

⁽³⁾ Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ 2009 L 284, p. 1).

Action brought on 9 August 2017 — Czech Republic v European Parliament, Council of the European Union

(Case C-482/17)

(2017/C 357/06)

Language of the case: Czech

Parties

Applicant: Czech Republic (represented by: M. Smolek, O. Serdula and J. Vlácil, acting as Agents)

Defendants: European Parliament, Council of the European Union

Form of order sought

— annul Directive (EU) 2017/853 of the European Parliament and of the Council of 17 May 2017 amending Council Directive 91/477/EEC on control of the acquisition and possession of weapons; ⁽¹⁾

— order the European Parliament and the Council to pay the costs.

In the alternative, the applicant asks the Court to:

— annul Article 1(6) of the contested directive, in so far as it inserts Article 5(3) and the second subparagraph of Article 6 (6) into Directive 91/477/EEC; ⁽²⁾

— annul Article 1(7) of the contested directive, in so far as it inserts Article 7(4a) into Directive 91/477/EEC;

— annul Article 1(19) of the contested directive, in so far as:

— it inserts points 6, 7 and 8 into Category A of Part II of Annex I to Directive 91/477/EEC;

- it amends Category B of Part II of Annex I to Directive 91/477/EEC;
 - it inserts point 6 into Category C of Part II of Annex I to Directive 91/477/EEC;
 - it amends Part III of Annex I to Directive 91/477/EEC;
- order the European Parliament and the Council to pay the costs.

Pleas in law and main arguments

The first plea in law alleges **breach of the principle of the conferral of powers**. The contested directive was adopted on the basis of Article 114 of the Treaty on the Functioning of the European Union, even though it does not pursue the objective of eliminating obstacles to the internal market, but solely the objective of preventing crime and terrorism. The EU legislature does not, however, have power to adopt harmonising measures in this field.

The second plea in law alleges **breach of the principle of proportionality**. The EU legislature did not address the question of the proportionality of the measures adopted and deliberately did not obtain sufficient information (for example, by carrying out an assessment of the consequences) in order to make an informed assessment of compliance with that principle. As a result of the lack of that assessment, the EU legislature adopted manifestly disproportionate measures consisting in the prohibition of certain kinds of semi-automatic weapons which are not however used in the European Union for committing terrorist acts, making stricter the regulation of certain minimally dangerous weapons (historical replicas or weapons shown to have been permanently deactivated), and not least affecting the possession of certain magazines.

The third plea in law alleges **breach of the principle of legal certainty**. The newly delimited categories of prohibited weapons (A7 and A8), like the provision constituting an interference with the possession of magazines above the limit, are altogether unclear from the point of view of legal certainty, and therefore do not enable the persons concerned unambiguously to discern their rights and obligations. Article 7(4a) of Directive 91/477/EEC, as amended by the contested directive, (the 'grandfathering clause') moreover effectively forces Member States to adopt national legislation that will have retroactive effects.

The fourth plea in law alleges **breach of the principle of non-discrimination**. The exception in the second subparagraph of Article 6(6) of Directive 91/477/EEC, as amended by the contested directive, admittedly gives the impression of a seemingly neutral measure, but in fact the conditions of its application are determined in such a way that they are complied with only by the Swiss system of leaving a weapon after completion of military service, in which connection they lack any objective justification with respect to the objectives of the contested directive.

⁽¹⁾ OJ 2017 L 137, p. 22.

⁽²⁾ OJ 1991 L 256, p. 51.

Request for a preliminary ruling from the Sąd Okręgowy w Warszawie (Poland) lodged on 11 August 2017 — Passengers Rights sp. z o.o. v Deutsche Lufthansa AG

(Case C-490/17)

(2017/C 357/07)

Language of the case: Polish

Referring court

Sąd Okręgowy w Warszawie

Parties to the main proceedings

Appellant: Passengers Rights sp. z o.o.

Respondent: Deutsche Lufthansa AG

Questions referred

1. Does an internal strike organised by a trade union of a carrier's employees constitute 'extraordinary circumstances' within the meaning of Article 5(3) of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, ⁽¹⁾ in conjunction with recital 14 of that regulation?