

Parties to the main proceedings

Applicant: BUAK Bauarbeiter-Urlaubs- u. Abfertigungskasse

Defendant: Gradbeništvo Korana d.o.o.

Question referred

Is Article 1 of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ⁽¹⁾ to be interpreted as meaning that proceedings involving the assertion of claims by the Bauarbeiter-Urlaubs- und Abfertigungskasse (Construction Workers' Leave and Severance Pay Fund, Austria) ('BUAK') for wage supplements against employers as a result of the posting to Austria of workers without a habitual place of work in Austria for the purposes of performing work or in connection with the hiring-out of workers, or against employers established outside Austria as a result of the employment of workers with a habitual place of work in Austria, constitute 'civil and commercial matters' to which the aforementioned regulation applies, even where such claims by BUAK for wage supplements concern employment relationships governed by private law and serve to cover workers' claims to annual leave and payment in respect of annual leave ('annual leave pay'), governed by private law and arising from employment relationships with employers, but nevertheless

- both the amount of the workers' claims against BUAK for annual leave pay and that of BUAK's claims against employers for wage supplements are determined not by contract or collective bargaining agreement but, instead, by decree of a Federal Minister,
- the wage supplements owed by employers to BUAK serve to cover not only the expenses for the payment in respect of annual leave payable to workers but also BUAK's expenses for administrative costs and
- in connection with the pursuit and enforcement of its claims for such wage supplements, BUAK has more extensive powers by law than a private person, in that
 - employers are required to submit reports to BUAK on specific occasions as well as at monthly intervals, using communication channels set up by BUAK, to take part in and allow BUAK's inspection measures, grant BUAK access to wage and business records and other documents, and provide information to BUAK, failing which a fine may be imposed, and
 - in the event that an employer breaches its reporting obligations, BUAK is entitled to calculate the wage supplements owed by the employer on the basis of BUAK's own investigations, whereby, in that case, BUAK has a claim for wage supplements in the amount calculated by BUAK, irrespective of the actual circumstances of the posting or employment?

⁽¹⁾ OJ 2012 L 351, p. 1.

**Request for a preliminary ruling from the Raad van State (Netherlands) lodged on 4 October 2017 —
Staatssecretaris van Veiligheid en Justitie v H.**

(Case C-582/17)

(2017/C 424/35)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicant: Staatssecretaris van Veiligheid en Justitie

Defendant: H.

Question referred

Must Regulation (EU) No 604/2013⁽¹⁾ of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person ... be interpreted as meaning that only the Member State in which the application for international protection was first lodged can determine the Member State responsible, with the result that a foreign national has a legal remedy only in that Member State, under Article 27 of the Dublin Regulation, against the incorrect application of one of the criteria for determining responsibility set out in Chapter III of that Regulation, including Article 9?

⁽¹⁾ OJ 2013 L 180, p. 31; 'the Dublin Regulation'.

**Request for a preliminary ruling from the Raad van State (Netherlands) lodged on 4 October 2017 —
Staatssecretaris van Veiligheid en Justitie v R.**

(Case C-583/17)

(2017/C 424/36)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicant: Staatssecretaris van Veiligheid en Justitie

Defendant: R.

Questions referred

1. Must Regulation (EU) No 604/2013⁽¹⁾ of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person ... be interpreted as meaning that only the Member State in which the application for international protection was first lodged can determine the Member State responsible, with the result that a foreign national has a legal remedy only in that Member State, under Article 27 of the Dublin Regulation, against the incorrect application of one of the criteria for determining responsibility set out in Chapter III of that Regulation, including Article 9?
2. In answering Question 1, to what extent is it significant that, in the Member State in which the application for international protection was first lodged, a decision on that application had already been made or, alternatively, that the foreign national had withdrawn that application prematurely?

⁽¹⁾ OJ 2013 L 180, p. 31; 'the Dublin Regulation'.

**Request for a preliminary ruling from the Vestre Landsret (Denmark) lodged on 12 October 2017 —
Skatteministeriet v Baby Dan A/S**

(Case C-592/17)

(2017/C 424/37)

Language of the case: Danish

Referring court

Vestre Landsret

Parties to the main proceedings

Applicant: Skatteministeriet

Defendant: Baby Dan A/S