

**Form of order sought**

The applicant claims that the Court should:

- Declare that, by failing to bring into force by 18 April 2016 at the latest the laws, regulations and administrative provisions necessary to comply with Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ 2014 L 94, p. 243) or, in any event, by failing to communicate to the Commission those provisions, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Article 106(1) of that directive;
- Impose on the Grand Duchy of Luxembourg, in accordance with Article 260(3) TFEU, a penalty payment of EUR 11 628 per day as of the date of delivery of the judgment in the present case for failure to fulfil its obligation to communicate to the Commission the measures transposing Directive 2014/25/EU;
- Order the Grand Duchy of Luxembourg to pay the costs.

**Pleas in law and main arguments**

1. Under Article 106(1) of Directive 2014/25/EU, the Member States were required to bring into force the provisions necessary to comply with that directive by 18 April 2016 at the latest. Given that Luxembourg has not communicated the measures transposing the directive, the Commission has decided to refer the matter to the Court of Justice.
2. The Commission in its action proposes that a daily penalty payment of EUR 11 628 be imposed on Luxembourg. The amount of the penalty payment has been calculated to take into account the seriousness and the duration of the infringement and the penalty payment's dissuasive effect, in the light of that Member State's capacity to pay it.

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**Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on 9 February 2018 — Sociale Verzekeringsbank; other parties: F. van den Berg and H.D. Giesen**

**(Case C-95/18)**

(2018/C 161/24)

*Language of the case: Dutch*

**Referring court**

Hoge Raad der Nederlanden

**Parties to the main proceedings**

*Appellant:* Sociale Verzekeringsbank (Svb)

*Other parties:* F. van den Berg and H.D. Giesen

**Questions referred**

1. (a) Must Articles 45 TFEU and 48 TFEU be interpreted as meaning that, in cases such as those at issue here, those provisions preclude a national rule such as Article 6a, introductory sentence and (b), of the AOW? <sup>(1)</sup> That rule means that a resident of the Netherlands is not insured for purposes of the social security scheme of that State of residence if that resident works in another Member State and is subject to the social security legislation of the State of employment on the basis of Article 13 of Regulation No 1408/71. <sup>(2)</sup> The present cases are characterised by the fact that, on the basis of the legislation of the State of employment, the persons concerned do not qualify for an old-age pension because of the limited scope of their work there.

- (b) For the purpose of the answer to Question 1(a), is it significant that, for a resident of a State of residence which, under Article 13 of Regulation No 1408/71, is not the competent State, there is no obligation to pay contributions under the social security schemes of that State of residence? For the periods during which that resident works in another Member State, he comes exclusively under the social security system of the State of employment by virtue of Article 13 of Regulation No 1408/71, and in such a case Netherlands national legislation does not provide for an obligation to pay contributions either.
2. For the purpose of the answer to Question 1, is it significant that the possibility existed for the parties concerned to take out voluntary insurance under the AOW, or that the possibility existed for them to request the Svb to conclude an agreement as referred to in Article 17 of Regulation No 1408/71?
3. Does Article 13 of Regulation No 1408/71 preclude someone such as Mr Giesen's wife, who, prior to 1 January 1989, on the basis solely of the national legislation in her country of residence, the Netherlands, was insured under the AOW, from building an entitlement to old-age benefits on the basis of that insurance, in relation to periods during which, pursuant to that provision of the regulation, she was subject, by reason of work carried out in another Member State, to the legislation of that State of employment? Or must entitlement to a benefit under the AOW be regarded as an entitlement to a benefit which, under national legislation, is not subject to conditions relating to paid employment or to insurance within the meaning of the *Bosmann* <sup>(2)</sup> judgment, with the result that the line of reasoning followed in that judgment can be applied in her case?

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<sup>(1)</sup> General Law on Old-Age Pensions.

<sup>(2)</sup> 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 (OJ English Special Edition 1971(II), p. 416).

<sup>(3)</sup> C-352/06, EU:C:2008:290.

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**Request for a preliminary ruling from the Hoge Raad der Nederlanden (Netherlands) lodged on  
9 February 2018 — Sociale Verzekeringsbank; other party: C.E. Franzen**

**(Case C-96/18)**

(2018/C 161/25)

*Language of the case: Dutch*

**Referring court**

Hoge Raad der Nederlanden

**Parties to the main proceedings**

*Appellant:* Sociale Verzekeringsbank (Svb)

*Other party:* C.E. Franzen

**Questions referred**

1. Must Articles 45 TFEU and 48 TFEU be interpreted as meaning that, in a case such as that at issue here, those provisions preclude a national rule such as Article 6a, introductory sentence and (b), of the AKW? <sup>(1)</sup> That rule means that a resident of the Netherlands is not insured for purposes of the social security scheme of that State of residence if that resident works in another Member State and is subject to the social security legislation of the State of employment on the basis of Article 13 of Regulation No 1408/71. <sup>(2)</sup> The present case is characterised by the fact that, on the basis of the legislation of the State of employment, the interested party does not qualify for child benefit because of the limited scope of her work there?