

**Request for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on
15 December 2022 — Sächsische Ärzteversorgung v Deutsche Bundesbank**

(Case C-759/22, Sächsische Ärzteversorgung)

(2023/C 112/28)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Sächsische Ärzteversorgung

Defendant: Deutsche Bundesbank

Questions referred

Questions concerning the interpretation of Regulations (EU) 2018/231 and (EU) No 549/2013: ⁽¹⁾

1. (a) Does point (b) of the first subparagraph of paragraph 3.19 of Annex A to the ESA require that all consumers of the products offered by the producer must have the freedom to purchase or not purchase those products and to make that choice on the basis of the prices charged?

If the foregoing question is answered in the negative:

- (b) In cases where the vast majority of those consumers, without having such freedom of choice, receive from the producer products amounting to more than half of its output by virtue of compulsory membership with that producer and are required to pay compulsory contributions in an amount set by the producer, are the requirements of the provision satisfied by the fact that a minority had the option of joining the producer as voluntary members and exercised that option in order to obtain the products in exchange for payment of the same contributions as the compulsory members?
2. Will market output at economically significant prices, as defined under paragraphs 3.17 to 3.19 of Annex A to the ESA, always be present if the '50 % criterion' defined in the third and fourth sentences of the third subparagraph of paragraph 3.19 of Annex A to the ESA is fulfilled by virtue of the fact that at least 50 % of the costs are covered by sales over a sustained multi-year period, or is that criterion to be interpreted not as a sufficient condition (one that is sufficient by itself) but rather as a necessary condition that applies in addition to the two preconditions laid down in points (a) and (b) of the second sentence of the first subparagraph of paragraph 3.19 of Annex A to the ESA?
3. For the purposes of determining whether institutional units are market producers as defined in paragraph 3.24 of Annex A to the ESA, must reference be made not only to paragraphs 3.17, 3.19 and 3.26 of Annex A but also to the additional requirements laid down in the second subparagraph of paragraph 1.37 of Annex A to the ESA?
4. (a) In order for an institutional unit to be classified in subsector S.129, does paragraph 2.107 of Annex A to the ESA necessarily require that all of its benefits must be provided to all participants on the basis of an insurance contract?

If that is the case:

- (b) Is the requirement for the benefits to be provided on a contractual basis already fulfilled in this respect if, notwithstanding the fact that the compulsory membership, the compulsory contributions and the compulsory benefits of the institutional unit are governed by the public body pursuant to its statutes, compulsory members can also establish claims to additional benefits through the payment of voluntary additional contributions?
5. Is point (f) of the third sentence of Article 1(1) of Regulation (EU) No 2018/231 to be interpreted as excluding from the concept of a 'pension fund', as defined in the first sentence of that provision, only those institutional units that satisfy both of the criteria set out in paragraph 2.117 of Annex A to the ESA, or does that exception also cover other institutional units which are to be regarded as social security pension schemes under paragraph 17.43 of Annex A to the ESA, even if they do not meet all of the requirements set out in paragraph 2.117 of Annex A to the ESA?

6. (a) Does the concept of 'general government' in paragraph 2.117(b) and paragraph 17.43 of Annex A to the ESA refer only to the respective primary unit, or does it also include legally independent pension institutions that have been established on a statutory basis, are organised on the basis of compulsory membership and financed by contributions, and which have the right to self-governance and separate accounting?

In the latter case:

- (b) Does the settlement or approval of the contributions and benefits, as referred to in paragraph 2.117(b) of Annex A to the ESA, mean a settlement or approval of the amount, or does it suffice if a law prescribes the minimum risks to be covered and the minimum level of cover, and also regulates the principles and limits for collection of contributions, while leaving it for the pension institution to assess the amount of the contributions and benefits within this framework?
- (c) Does the concept of a 'government unit', as referred to in paragraph 20.39 of Annex A to the ESA, include only institutional units that fulfil all the requirements set out in paragraphs 20.10 and 20.12 of Annex A to the ESA?

(¹) Regulation (EU) 2018/231 of the European Central Bank of 26 January 2018 on statistical reporting requirements for pension funds (ECB/2018/2) (OJ 2018 L 45, p. 3) read in conjunction with Regulation (EU) No 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union (OJ 2013 L 174, p. 1; 'ESA').

**Request for a preliminary ruling from the Tribunal judiciaire de Marseille (France) lodged on
16 December 2022 — Procureur de la République v OP**

(Case C-763/22)

(2023/C 112/29)

Language of the case: French

Referring court

Tribunal judiciaire de Marseille

Parties to the main proceedings

Applicant: Procureur de la République

Defendant: OP

Question referred

Does Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (¹) preclude the legislation of a Member State from granting a governmental authority the power to decide, between a European arrest warrant and a concurrent extradition request issued by a third country, which of the two is to be executed, without any possibility of legal remedy?

(¹) OJ 2002 L 190, p. 1.

**Request for a preliminary ruling from the Amtsgericht München (Germany) lodged on 16 December
2022 — WD v Allane SE**

(Case C-766/22)

(2023/C 112/30)

Language of the case: German

Referring court

Amtsgericht München

Parties to the main proceedings

Applicant: WD

Defendant: Allane SE