

Reference for a preliminary ruling from the Tribunal des affaires de sécurité sociale de Longwy by order of that court of 14 April 2005 in Fabien Nemeč v Caisse Régionale d'Assurance Maladie du Nord-Est

(Case C-205/05)

(2005/C 182/52)

(Language of the case: French)

Reference has been made to the Court of Justice of the European Communities by order of the Tribunal des affaires de sécurité sociale de Longwy (Social Security Tribunal, Longwy) of 14 April 2005, received at the Court Registry on 11 May 2005, for a preliminary ruling in the proceedings between Fabien Nemeč and Caisse Régionale d'Assurance Maladie du Nord-Est (Regional Health Insurance Fund of the North East) on the following question:

In refusing to take the pay earned by Mr Nemeč in Belgium into account when calculating the amount of the allowance for asbestos workers awarded to him pursuant to Article 41 of Law No 98-1194 of 23 December 1998, on the basis of Article 2 of the Decree implementing Law No 99-247 of 29 March 1999 and Circular 2SS/4B/99 No 332 of 9 June 1999, because that pay did not give rise to the payment of social security contributions in accordance with Article L 242-1 of the French Social Security Code, did the C.R.A.M. take, in his regard, a wrongful decision constituting an impediment to freedom of movement as laid down in Article 39 EC, an infringement of Regulation (EC) No 883/2004⁽¹⁾ or an infringement of Article 15 of Regulation (EEC) No 574/72⁽²⁾?

⁽¹⁾ 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).

⁽²⁾ Regulation (EEC) No 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community (OJ, English Special Edition 1972(I), p. 159).

Action brought on 11 May 2005 by the Commission of the European Communities against the Italian Republic

(Case C-207/05)

(2005/C 182/53)

(Language of the case: Italian)

An action against the Italian Republic was brought before the Court of Justice of the European Communities on 11 May 2005 by the Commission of the European Communities, represented by V. Di Bucci and L. Pignataro, acting as Agents.

The Commission claims that the Court should:

1. declare that, by not adopting within the prescribed time-limits all measures necessary to recover from the beneficiaries the aid adjudged to be unlawful and incompatible with the common market by Commission Decision 2003/193/EC⁽¹⁾ of 5 June 2002 on State aid granted by Italy in the form of tax exemptions and subsidised loans to public utilities with a majority public capital holding, C 27/99 (ex NN 69/98), or in any event by not informing the Commission of those provisions, the Italian Republic has failed to fulfil its obligations under Articles 3 and 4 of that decision and the EC Treaty;
2. order the Italian Republic to pay the costs.

Pleas in law and main arguments

The decision obliges Italy to take all measures necessary to recover from the beneficiaries the aid granted and unlawfully made available to the beneficiaries under the schemes examined in that decision, and to inform the Commission within two months of notification of the measures taken to comply with it.

Italy has not taken the necessary measures and in any event has not informed the Commission or submitted that it is absolutely impossible to enforce the decision. Recent legislation has allowed the subsequent extension of the time-limits for recovery which do not in any case result in the immediate enforcement of the decision. Moreover, the Commission has always given Italy its full cooperation.

⁽¹⁾ OJ 2003 L 77, p. 21 of 24.03.2003.