



## Reports of Cases

### Order of the Court (Eighth Chamber) of 11 July 2013 — Luca

(Case C-430/12)

(Article 99 of the Rules of Procedure — Social security — Freedom to provide services — Regulation (EEC) No 1408/71 — Article 22 — Sickness insurance — Hospital treatment provided in another Member State — Prior authorisation — Compensation for the insured person)

1. *Questions referred for a preliminary ruling — Admissibility — Need to provide the Court with sufficient information on the factual and legislative context (Art. 267 TFEU; Statute of the Court of Justice, Art. 23; Rules of Procedure of the Court of Justice, Art. 94) (see paras 17-19)*
2. *Social security — Migrant workers — Sickness insurance — Services in kind supplied in another Member State — Article 22(1)(c)(i) of Regulation No 1408/71 — Refusal of authorisation unfounded — Obligation to reimburse hospital expenses in accordance with the system in the Member State of the insured person — Amount of reimbursement determined by the legislation of the State in which the services are provided — Possibility of additional reimbursement where the amounts differ — Upper limit of cover guaranteed by the health insurance scheme where refusal of authorisation is founded (Art. 56 TFEU; Council Regulation No 1408/71, Art. 22(1)(c)(i)) (see paras 26-29, 34, operative part)*
3. *Social security — Migrant workers — Sickness insurance — Services in kind supplied in another Member State — National legislation requiring, without exception, prior authorisation for the institution competent for reimbursement of hospital treatment provided in another Member State — Not permissible (Art. 56 TFEU; Council Regulation No 1408/71, Art. 22(2), second para.) (see paras 21-25, 30, 34, operative part)*

#### Re:

Request for a preliminary ruling — Curtea de Apel Bacău — Interpretation of Article 56 TFEU and Article 22 of Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (English Special Edition, Series I, 1971(II), pp. 416 to 463), as amended — National legislation under which prior authorisation is required in order to obtain full reimbursement of expenses incurred in respect of medical treatment abroad — Determination in the absence of prior authorisation, of expenditure incurred in another Member State determined in accordance with the criteria of the State of affiliation.

**Operative part:**

Article 49 EC and Article 22 of Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community, in the version amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Regulation (EC) No 592/2008 of the European Parliament and of the Council of 17 June 2008, do not, in principle, preclude legislation of a Member State which makes the entitlement to full reimbursement of expenses incurred in respect of hospital treatment provided in another Member State subject to obtaining prior authorisation. On the other hand, those provisions preclude such legislation which is interpreted as excluding, in all cases, full reimbursement by the competent institution for hospital treatment given without prior authorisation.

Where a refusal to grant reimbursement, because of the absence of prior authorisation alone, of hospital treatment provided in another Member State and paid for by the insured person is, having regard to the circumstances of the case, unfounded, that person is entitled to reimbursement for that treatment by the competent institution up to the amount determined by the legislation of that Member State. If that amount is less than that which would have resulted from application of the legislation in force in the Member State of residence if hospital treatment had been provided there, additional reimbursement corresponding to the difference between those two amounts must in addition be made by the competent institution, up to the amount of the expenditure actually incurred.

Where a refusal to grant reimbursement is well founded, the insured person is entitled, under Article 49 EC, to a reimbursement of hospital treatment only within the limits of cover guaranteed by the health insurance system to which that person is affiliated.