Judgment of the Court (Third Chamber) of 1 October 2020 (request for a preliminary ruling from the Rēzeknes tiesa — Latvia) — LSEZ SIA 'Elme Messer Metalurgs' v Latvijas Investīciju un attīstības aģentūra

(Case C-743/18) ([1])

(Reference for a preliminary ruling — Structural Funds — European Regional Development Fund (ERDF) — Regulation (EC) No 1083/2006 — Article 2(7) — Concept of 'irregularity' — Infringement of a provision of EU law resulting from an act or omission on the part of an economic operator — Prejudice caused to the general budget of the European Union — Insolvency of the beneficiary's sole business partner)

(2020/C 399/11)

Language of the case: Latvian

Referring court

Rēzeknes tiesa

Parties to the main proceedings

Applicant: LSEZ SIA 'Elme Messer Metalurgs'

Defendant: Latvijas Investīciju un attīstības aģentūra

Operative part of the judgment

Article 2(7) of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999, as amended by Regulation (EU) No 539/2010 of the European Parliament and of the Council of 16 June 2010, must be interpreted as meaning that a situation in which the beneficiary of European Regional Development Fund funding fails to achieve, during the relevant period, the level of turnover expected as part of the project eligible for financing because the activities of its sole business partner have been suspended or because that partner has become insolvent may be regarded as an 'irregularity' within the meaning of that provision.

([1]) OJ C 54, 11.2.2019.

Judgment of the Court (Fourth Chamber) of 23 September 2020 (request for a preliminary ruling from the Szombathelyi Közigazgatási és Munkaügyi Bíróság — Hungary) — WO v Vas Megyei Kormányhivatal

(Case C-777/18) ([1])

(Reference for a preliminary ruling — Social security — Sickness insurance — Regulation (EC) No 883/2004 — Article 20 — Scheduled treatment — Prior authorisation — Mandatory grant — Conditions — Insured person prevented from applying for prior authorisation — Regulation (EC) No 987/2009 — Article 26 — Assumption of costs of scheduled treatment incurred by the insured person — Procedure for reimbursement — Directive 2011/24/EU — Cross-border healthcare — Article 8 (1) — Healthcare that may be subject to prior authorisation — Principle of proportionality — Article 9 (3) — Processing of applications for cross-border healthcare — Factors to be taken into account — Reasonable time — Freedom to provide services — Article 56 TFEU)

(2020/C 399/12)

Language of the case: Hungarian

Referring court

Szombathelyi Közigazgatási és Munkaügyi Bíróság

Parties to the main proceedings

Applicant: WO

Defendant: Vas Megyei Kormányhivatal

Operative part of the judgment

1. The combined provisions of Article 20 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems and Article 26 of Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation No 883/2004, relating to scheduled treatment, read in the light of Article 56 TFEU, must be interpreted as meaning that:

   — healthcare received in a Member State other than the Member State in which the insured person resides, on his or her own initiative, on the ground that, according to that person, that treatment or treatment with the same efficacy was unavailable within a time limit which is medically justifiable, comes within the definition of 'scheduled treatment' within the meaning of those provisions, so that the receipt of such treatment is, in accordance with the conditions laid down in Regulation No 883/2004, in principle subject to the granting of an authorisation by the competent institution of the Member State of residence;

   — an insured person who has received scheduled treatment in a Member State other than his or her Member State of residence, without having applied for authorisation from the competent institution, pursuant to Article 20(1) of that regulation, is entitled to reimbursement, under the conditions laid down in that regulation, of the cost of that treatment, if

      — first, between the date on which the appointment for the purposes of a medical examination and possible treatment in another Member State was made and the date on which that treatment was given to the insured person in that Member State, to which he or she had to travel, that person was, for reasons relating to his or her state of health or to the need to receive urgent treatment there, in a situation which prevented him or her from applying for such authorisation from the competent institution or was not able to wait for the decision of that institution on such application, and

      — second, the other conditions for the assumption of the costs of the benefits in kind, pursuant to the second sentence of Article 20(2) of that regulation are also met.

   It is for the referring court to carry out the necessary verifications in that respect.

2. Article 56 TFEU and point (a) of the first subparagraph of Article 8(2) of Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare must be interpreted as precluding national legislation which, in the absence of prior authorisation, excludes reimbursement, within the limits of the cover provided by the health insurance scheme in the Member State of affiliation, of the costs of a medical consultation incurred in another Member State.

   Article 56 TFEU and Article 8(1) of Directive 2011/24 must be interpreted as precluding national legislation — in a case where the insured person was prevented from applying for such authorisation or was not able to wait for the decision of the competent institution on the application for authorisation, for reasons relating to his or her state of health or to the need to receive urgent hospital care or healthcare involving the use of highly specialised and cost-intensive medical equipment, even though all other conditions for such costs to be assumed are met — which, in the absence of prior authorisation, excludes reimbursement, within the limits of the cover provided by the health insurance scheme in the Member State of affiliation, of the costs of that care given to that person in another Member State;

3. Article 9(3) of Directive 2011/24 must be interpreted as not precluding national legislation which provides for a time limit of 31 days to grant prior authorisation of the assumption of costs of cross-border healthcare and 23 days to refuse it, while allowing the competent institution to take into account the individual circumstances and the urgency of the case in question.

(1) OJ C 139, 15.4.2019.