

**Request for a preliminary ruling from the Cour de cassation (France) lodged on 10 January 2019 —  
Bouygues travaux publics, Elco construct Bucurest, Welbond armatures**

**(Case C-17/19)**

(2019/C 103/13)

*Language of the case: French*

**Referring court**

Cour de cassation

**Parties to the main proceedings**

*Appellants:* Bouygues travaux publics, Elco construct Bucurest, Welbond armatures

**Question referred**

Must Article 11 of Council Regulation (EEC) No 574/72 of 21 March 1972 laying down the procedure for implementing 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 their families moving within the Community, <sup>(1)</sup> in the version amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, <sup>(2)</sup> as amended by Regulation (EC) No 647/2005 of the European Parliament and of the Council of 13 April 2005, <sup>(3)</sup> and Article 19 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 (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, <sup>(4)</sup> be interpreted as meaning that an E 101 certificate issued by the institution designated by the competent authority of a Member State pursuant to Article 14(1) and (2)(b) of Regulation No 1408/71, in the version amended and updated by Regulation No 118/97, as amended by Regulation (EC) No 647/2005 of the European Parliament and of the Council of 13 April 2005, or an A1 certificate issued pursuant to Article 13 (1) of Regulation No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, binds the courts of the Member State in which the work is carried out when it comes to determining the legislation applicable, not only as regards the social security system but also as regards labour law, where such legislation defines the obligations of employers and the rights of employees, so that, having heard the arguments of the parties, those courts can disregard the above-mentioned certificates only if, on the basis of an assessment of specific evidence, collected in the course of the judicial investigation, which supports the conclusion that the certificates were fraudulently obtained or relied on and which the issuing institution failed to take into account, the said courts identify, within a reasonable timeframe, fraud, comprised, as regards its objective element, by the failure to meet the conditions laid down in either of the aforementioned provisions of Council Regulation (EEC) No 574/72 of 21 March 1972 laying down the procedure for implementing Council Regulation (EEC) No 1408/71 of 14 June 1971 and Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 and, as regards its subjective element, by the intention of the accused person to evade or circumvent the conditions for the issue of that certificate, in order to obtain the advantages attaching thereto?

<sup>(1)</sup> OJ, English Special Edition 1972 (I), p. 160.

<sup>(2)</sup> Council Regulation (EC) No 118/97 of 2 December 1996 amending and updating Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 (OJ 1997 L 28, p. 1).

<sup>(3)</sup> Regulation (EC) No 647/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulations (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 (OJ 2005 L 117, p. 1).

<sup>(4)</sup> OJ 2004 L 284, p. 1