



C/2023/953

27.11.2023

**Request for a preliminary ruling from the Cour d'appel de Liège (Belgium) lodged on 10 July 2023 —
Ministère public, Office National de Sécurité Sociale (ONSS) v EX**

(Case C-421/23, ONSS)

(C/2023/953)

Language of the case: French

Referring court

Cour d'appel de Liège

Parties to the main proceedings

Applicants at first instance: Ministère public, Office National de Sécurité Sociale (ONSS)

Defendant at first instance: EX

Questions referred

1. Is Regulation No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems ⁽¹⁾ to be interpreted as applying in a situation where it has been held, without the point being contested by the parties, that, first, the A1 certificates produced are forged according to the judicial authorities of the host State and, second, the investigations duly carried out by the judicial authorities of that host State appear to show that the certificates at issue were not issued by the competent authority of the issuing State, even though social security contributions have been paid to that authority?
2. If the answer to the previous question is in the affirmative, is the dialogue and conciliation procedure established by Article 76(6) of Regulation No 883/2004 (which reproduces the procedure provided for in Article 84a(3) of Regulation No 1408/71 ⁽²⁾) an essential prerequisite for determining whether the conditions for the existence of a fraud are met?
3. If the answers to the previous two questions are in the affirmative, in accordance with the principle of prohibition of fraud and abuse of rights, which is a general principle of EU law which individuals must comply with, may the authorities of the State in which the employees exercised their activity disregard the abovementioned A1 certificates, including in the absence of recourse to the dialogue and conciliation procedure in the event of suspicion of fraud, where the facts submitted for assessment by them support the conclusion that those certificates were produced as a result of conduct on the part of the employer which a judicial authority of the host State found to be fraudulent?

⁽¹⁾ OJ 2004 L 166, p. 1.

⁽²⁾ Regulation of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ 1971 L 149, p. 2).