REPORT
ON EUROPEAN LABOUR AND SOCIAL SECURITY LAW

HSI
Hugo Sinzheimer Institute for Labour and Social Security Law

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I. Editorial

HSI Report 2/2025 chronicles the development of case law and legislation in the area of labour and social security law at European and international level in the period from April to June 2025. Starting with this issue, Prof. Dr. Christina Hiessl, who researches and teaches at KU Leuven with a strong focus on European law, has joined the editorial team. We are very much looking forward to working with her.

The **CJEU overview** contains a decision according to which a Member State's obligation to adopt a plan to preserve jobs in the event of collective redundancies does not fall within the scope of the Collective Redundancies Directive (*Hôtel Plaza* – C-419/24). In Case L.T (C-212/24, C-226/24 and C-227/24), the CJEU is examining an Italian collective agreement on the prohibition of discrimination against fixed-term employees. In this case, the CJEU clarifies that the calculation of remuneration and social security contributions for fixed-term employees in agriculture may not be based on the hours actually worked, whereas the calculation for permanent employees is based on a fixed weekly working time. The CJEU also ruled that compulsory vaccination for employees under Lithuanian law is compatible with EU law (*Tallinna linn* – C-219/24). Furthermore, the CJEU ruled that it does not constitute indirect discrimination if social security benefits are calculated on the basis of the last salary, even if the applicant has recently reduced her working hours in order to care for family members (*Alcampo* – C-584/23).

One noteworthy decision **from the ECtHR** concerns protection against dismissal for pregnant women. In this regard, the ECtHR concluded that different treatment of senior executives compared to employees may be justified (*D.J. v. Slovenia* – No. 29265/22). A new case is pending on the question of whether employers are obliged to apply collective agreements of other trade unions after employees have switched to another trade union (*Pálsdóttir v. Iceland* – No. 10992/24).

We would also like to thank Ass. Iur. Katharina Ruhwedel, M.A., and Antonia Seeland, LLM., for their thorough and dedicated editing of this issue of the HSI Report.

We wish you a stimulating read and look forward to receiving your feedback at hsi@boeckler.de.

The editors
Prof Dr Martin Gruber-Risak, Prof Dr Christina Hiessl, Prof Dr Daniel Hlava and Dr Ernesto Klengel

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II. Proceedings before the CJEU

Compiled and commented by

Dr Ernesto Klengel, Sandrina Hurler and Katharina Ruhwedel, Hugo Sinzheimer Institute of the Hans Böckler Foundation, Frankfurt/M.

Translated from the German by Allison Felmy

1. Collective redundancy

New pending proceedings

Reference for a preliminary ruling from the Supremo Tribunal de Justiça (Portugal), received on 23 April 2024 – C-293/24 – *Ferreira da Silva e Brito and Others*

Law: Art. 1(1) Transfer of Undertakings Directive 2001/23/EC

Keywords: Transfer of undertaking – Collective redundancy– State liability

Note: In connection with state liability due to incorrect application of directives, the referring court asks whether the term "transfer of undertaking" within the meaning of the Transfer of Undertakings Directive covers a situation in which an airline is dissolved on the basis of a decision by its majority shareholder and, in the context of liquidation, charter flights were operated by the majority shareholder, for example. Does the application of the law and the failure to refer the matter to the CJEU constitute a sufficiently serious breach of EU law?

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2. Data protection

Decision

Judgment of the Court (First Chamber) of 30 April 2025 – C-313/23 – *Inspectorate kam Visshia sadeben savet*

Law: Art. 19(1) subpara. 2 TEU in conjunction with Art. 47 CFREU; Ars 4(7) and 79(1) GDPR (EU) 2016/679

Keywords: Employee data protection – Judicial inspections – Extension of term of office without legal basis – Access to the account balances of judges and prosecutors – Data controller

Core statement: The principle of judicial independence precludes a practice in a Member State whereby members of a judicial body responsible for monitoring the integrity of judges, among others, continue to perform their duties beyond the legal term of office laid down in the Constitution of that Member State until the Parliament has elected new members. National law must provide an explicit legal basis with clear and precise rules governing and limiting the duration of such continuation of duties. The transfer of personal data subject to banking secrecy and concerning, inter alia, judges and their family members to a judicial authority constitutes processing of personal data within the meaning of the GDPR. A court that is authorised to approve the disclosure of data on bank accounts upon request is not to be

classified as a controller within the meaning of the GDPR. Nor is it a supervisory authority within the meaning of the GDPR unless it is tasked with monitoring the application of the GDPR, in particular to protect the fundamental rights and freedoms of natural persons in relation to the processing of their personal data.

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3. Equal treatment

Decisions

Judgment of the Court (Sixth Chamber) of 10 April 2025 – C-584/23 – *Alcampo and Others*

Law: Art. 4 Equal Treatment Directive for Social Security 79/7/EEC

Keywords: Accident at work – Disability pension – Calculation basis in case of part-time work for care reasons – Equal treatment of men and women – Indirect discrimination on ground of sex

Core statement: Member State regulations under which a disability pension is calculated on the basis of the actual salary paid at the time of the accident at work do not constitute indirect discrimination on ground of sex, even if the reduction in working hours was for the purpose of childcare.

Note: The referring court asks a fundamental question: Does it violate the prohibition of indirect discrimination on ground of sex if the amount of a pension for permanent incapacity is reduced because the applicant reduced her working hours more than two years earlier in order to fulfil care responsibilities? This reduction is predominantly taken by women. The CJEU concludes that it does not constitute indirect discrimination if the actual last salary is used to calculate the pension. This decision is justified on the grounds that the Equal Treatment Directive for Social Security does not oblige Member States to grant social security benefits or to provide for entitlement to benefits due to periods of interruption of employment for the reason of childcare. Furthermore, the statistical data submitted cannot establish discrimination.

Judgment of the Court (Tenth Chamber) of 15 May 2025 – C-623/23 – *Melban*

Law: Ars 1 and 4 Equal Treatment Directive for Social Security 79/7/EEC; Art. 23 CFREU

Keywords: Equal treatment of women and men – Pension supplement based on parenthood – Direct discrimination

Core statement: A Spanish provision on pension supplements for parents constitutes direct discrimination against men within the meaning of Article 4(1) of the Equal Treatment Directive for Social Security and Article 23 of the CFREU. Under this national provision, women who receive a contributory old-age pension and have one or more children receive a pension supplement. The granting of such a supplement to men is subject to additional conditions. For example, men must have had their career interrupted or impaired due to the birth or adoption of their children.

However, it is permissible for the grant of the pension supplement at issue to a father to result in the loss of the mother's pension supplement. The pension supplement can only be granted to the parent who receives a lower old-age pension. If this parent is the father, the granting of the pension supplement to the father results in the loss of the mother's pension supplement.

Note: This ruling concluded two Spanish proceedings involving similar cases. Under Spanish pension law, mothers are entitled to a supplement to their contribution-based retirement pensions. Fathers, on the other hand, can only claim this supplement if they meet additional requirements. The aim of this provision is to improve the average old-age pension of women, which is lower than that of men due to child-rearing, by means of a supplement and to compensate for the resulting disadvantage.

In the first case, the CJEU found discrimination against men. It justified its decision on the grounds that the pension supplement scheme places men at a disadvantage compared to women, even though they may be in a comparable situation. Furthermore, this provision did not fall under any exception to the prohibition of discrimination, such as the protection of women on account of maternity. There was no connection between the granting of the pension supplement and the disadvantages that a woman might suffer after giving birth due to her unemployment or maternity leave.

Opinion

Opinion of Advocate General Rantos of 3 April 2025 – C-5/24 – *Pauni*

Law: Art. 1, Art. 2(1) and (2), Art. 3(1)(c) Framework Directive on Equal Treatment 2000/78/EC

Keywords: Indirect discrimination on grounds of disability – Protection against dismissal – Collective agreement

Core statement: A collective agreement provision under which employees may be dismissed if their absence due to illness exceeds a paid period of 180 days per year, to which a maximum of 120 days per year may be added upon request, may be justified under EU law, even if no distinction is made based on whether or not the employee has a disability. Even if the provision pursues the legitimate aim of ensuring that employees are available to perform their professional duties, it must not go beyond what is necessary to achieve that aim.

Note: The applicant is covered by a collective agreement under Italian law which, in short, entitles employees to retain their jobs if they have been ill for 180 days within a year. If this limit is exceeded, the employment relationship is deemed to have been terminated, giving rise to a claim for severance pay. Under certain conditions, the period may be extended once by 120 days ("unpaid leave") at the employee's request. An exception to this possibility of dismissal for personal reasons exists for employees with cancer, but not generally for employees with disabilities. The plaintiff, a person with a disability, was dismissed by her employer with reference to this provision.

On the one hand, it is questionable whether the provision constitutes direct discrimination against persons with disabilities. On the other hand, the question is whether the granting of (un)paid leave after the period of 180 or 120 days can be considered a reasonable accommodation in accordance with Article 5 of the Equal Treatment Framework Directive. The sanctions for discrimination could include the revocation of the dismissal and the obligation of the employer to compensate for the damage suffered. Since many collective agreements in Italy contain similar provisions, the outcome of the proceedings is of overarching importance.

The Advocate General states correctly that the provision constitutes indirect discrimination on grounds of disability. The Advocate General considers that this may however be justified – at least insofar as it is covered by the objective of ensuring that employees are available to perform their professional duties. However, the considerations for justification relate – if one is willing to accept them – to the regulation as a whole, and not specifically to the particular disadvantage of people with disabilities. It is not apparent that the desired labour market policy objective would be undermined if the exemption from its application were extended to all

people with recognised disabilities. If one assumes – as seems obvious – a violation of the prohibition of discrimination against persons with disabilities, the facts of the case represent a discrimination law counterpart to the decision of the Federal Constitutional Court (BVerfG) on different night-work bonuses.[1] While the BVerfG decision dealt with the general principle of equality, the present case concerns the prohibition of discrimination on grounds of disability. It is noteworthy that the Advocate General in his assessment refers to the fundamental right of non-discrimination under Article 21 of the CFREU. However, he does not mention the relationship between this and the freedom of collective bargaining under Article 28 of the CFREU. In the area of protection against discrimination, it is established case law of the European Court of Justice that those who have been discriminated against are entitled to the benefit they have been denied as a legal consequence of unlawful discrimination – even if the discrimination is based on collective agreements.[2] This does not prevent the parties to collective agreements from exercising their "primary corrective power" – but if they fail to reach an agreement, those who have experienced discrimination are entitled to the benefit they have been denied.

New pending proceedings

Reference for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio (Italy), lodged on 6 May 2025 – C-320/25 – *Lertimene*

Law: Art. 2(1)(b) Directive 2006/54/EC; Directive 2000/78/EC; Ars 21 and 23 CFREU

Keywords: Exclusion from the selection process for the police service – Tattoo – Discrimination on ground of sex

Note: Is a provision contrary to EU law that allows a female candidate to be excluded from the selection procedure for admission to the police service on the grounds of a tattoo that is only visible when the standard uniform intended for representative occasions, a skirt and pumps, is worn?

Action brought by the Commission on 22 December 2023 – C-799/23 – *Commission v. Slovak Republic*

Law: Art. 2(1) and (2)(b) Race Discrimination Directive 2000/43/EC on anti-discrimination

Keywords: Indirect discrimination – Placement of Roma children in special schools and classes

Note: The European Commission has brought an action before the CJEU in infringement proceedings against the Slovak Republic. The complaint concerns systematic and persistent violations of the Anti-discrimination Directive through the placement and segregation of Roma children in special schools and classes for children with mental or other disabilities. This followed the initiation of infringement proceedings in 2015 and the delivery of a reasoned opinion in 2019. In the Commission's view, the legislative reforms and other measures subsequently adopted by the Slovak Republic were not sufficient to effectively combat the

[1] BVerfG of 11 December 2024 – 1 BVR 1109/21 et al.

[2] In this sense, on the principle of equal pay for women and men, see already CJEU, 8 April 1976 – C-43/75 – *Defrenne II*, paras. 15, 21; CJEU, 7 February 1991 – C-184/89 – *Nimz*, in particular para. 20; on the free movement of workers, CJEU, 15 January 1998 – C-15/96 – *Schöning-Kougebetopoulou*, para. 35; on the principle of upward adjustment, CJEU, 9 March 2017 – C-406/15 – *Milkova*, para. 65 with further references; see also *Gallner*, NZA 2025, 877, 879 et seq.; *Spelge*, NZA 2025, 288 et seq.; *Zwanziger*, AuR 2025, 234, 248 et seq.

indirect discrimination.[3] The European Court of Human Rights has also recently dealt with this issue.[4]

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4. Fixed-term employment

Decision

Judgment of the Court (Tenth Chamber) of 8 May 2025 – C-212/24 – *L.T.*

Law: Clause 4(1) Framework Agreement on Fixed-Term Work (implemented by Directive 1999/70/EC)

Keywords: Fixed-term agricultural workers – Social security contributions – Unequal treatment – Remuneration – Collective agreement

Core statements: The different calculation and determination of social security contributions for fixed-term and permanent agricultural employees constitutes unjustified discrimination if the calculation methods are as follows: The social security contributions of fixed-term employees are determined on the basis of the hours actually worked. For permanent employees, on the other hand, a fixed daily flat-rate working time is used as a basis.

Note: According to the CJEU, the unequal treatment of fixed-term and permanent agricultural workers in Italy allows fixed-term employees to be disadvantaged. While social security contributions can be paid for hours not worked for permanent agricultural workers, this option is not available for fixed-term workers. The court could not find any objective reason for this discrimination. In the original proceedings, the plaintiff argued that fixed-term work in agriculture was justified by seasonal and short-term requirements. However, the CJEU made it clear that this argument was not convincing, as it was based solely on the duration of the employment relationship and did not explain why different social security regulations should apply to comparable work.

Opinion

Opinion of Advocate General Kokott of 5 June 2025 – C-543/23 – *Gnattai*

Law: Clause 4 Framework Agreement on Fixed-Term Work (implemented by Directive 1999/70/EC)

Keywords: Teachers – Fixed-term contracts

Core statement: It is not contrary to EU law to disregard the length of service completed by fixed-term employees at equivalent schools when they are appointed on a permanent basis at a state school for the purposes of determining their length of service and classification in a remuneration group. Articles 20 and 21 of the CFREU are not applicable in the present case.

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[3] See the European Commission's press release of 19 April 2023.
[4] ECtHR of 27 February 2025 – No. 29359/22 – Salay v. Slovakia.

Decisions

Judgment of the Court (Tenth Chamber) of 12 June 2025 – C-219/24 – *Tallinna linn*

Law: Art. 14(3) and Annex VII Nos. 1 and 2 of Directive 2000/54/EC on the Protection of Workers from Risks Related to Exposure to Biological Agents at Work; Occupational Safety and Health Framework Directive 89/391/EEC

Keywords: Occupational safety and health – Compulsory vaccination – COVID-19 pandemic

Core statement: A regulation allowing employers to require employees to be vaccinated if they are exposed to a risk of infection is in conformity with EU law.

Note: In April 2021, prompted by the Covid-19 pandemic, the city of Tallinn amended job descriptions for employees in the emergency medical services to stipulate that vaccination against dangerous infectious diseases was now a prerequisite for employment. Several emergency service employees who failed to either be vaccinated or present a contraindication to the vaccination by the deadline set by their employer were dismissed without notice. The employees appealed against this decision. Before the lower courts, they argued that Tallinn was not entitled to impose such a vaccination requirement.

The CJEU, however, is of the opinion that the Occupational Safety and Health Directive and Directive 2000/54 lay down minimum requirements for safety and health protection at work that are not infringed by the Estonian provision allowing employers to impose stricter requirements than those laid down by law for the protection of the health and safety of employees. Article 14(3) in conjunction with Annex VII Nos. 1 and 2 of Directive 2000/54 obliges employers to offer certain employees access to vaccination, but says nothing about compulsory vaccination. Nor can any conclusions be drawn from OSH Directive 89/391 as regards compulsory vaccination. The CJEU clarifies that the EU legislature intended to specifically not lay down conditions under which Member States are entitled to impose a vaccination requirement such as that at issue in the main proceedings. Since the Member State is not implementing EU law within the meaning of Article 51(1) of the CFREU when it allows compulsory vaccination, the fundamental rights enshrined in that article are also not applicable to the case in question.

The ruling provides clarity on how the CJEU assesses compulsory vaccinations for medical personnel: if employees are exposed to a dangerous biological agent such as the SARS coronavirus in the course of their work, there is nothing in EU law to prevent employers from imposing a vaccination requirement. In *Azienda Ospedale-Università di Padova*,[5] the CJEU denied the admissibility of the questions referred. In that case, an employee of a university hospital failed to comply with the mandatory vaccination required by her employer and was subsequently suspended. Another case concerning mandatory vaccination in the workplace and its implementation is pending before the CJEU.[6] The present ruling is likely to set a precedent for it. Furthermore, its findings are consistent with both the case law of the ECtHR, which found in the case *of Pasquinelli and Others v. San Marino*[7] that a facility-based vaccination requirement was in conformity with the Convention, and that of the Federal Constitutional Court,[8] which ruled that Section 20a of the Infection Prevention Act (IfSG), now expired, was constitutional.

[5] CJEU of 13 July 2023 – C-765/21 – *Azienda Ospedale-Università di Padova*; see HSI Report 3/2023, p. 8.
[6] Preliminary ruling request C-522/24 – *Ministero della Difesa*, see HSI Report 3/2024, p. 10 et seq.
[7] ECtHR of 29 April 2024 – No. 24622/22 – *Pasquinelli and Others. v. San Marino*, cf. *Stöhr*, HSI Report 3/2024, p. 24.
[8] BVerfG (Federal Constitutional Court) of 27 April 2022 – 1 BvR 2649/21, paras. 236 et seq.

Opinion

Opinion of Advocate General Rantos of 30 April 2025 – C-678/23 – *Spitalul Clinic de Pneumoftiziologie Iaşi*

Law: Ars 9 and 11(6) Occupational Safety and Health Directive 89/391/EEC

Keywords: Occupational safety and health – Possibility for workers to apply directly to authorities and courts – Direct vertical effect of a directive

Core statement: National legislation which does not allow workers to apply to the competent authority or national courts to have the classification of their activities in certain risk groups reviewed or determined does not violate the OSH Directive. Article 11(6) of the Directive has no direct effect.

Note: The plaintiff, a specialist in pulmonology, wishes to obtain recognition of specific activity-related occupational risks. She worked for several decades for a hospital run by a local administrative authority. From 1989 to 2007, she worked under difficult, dangerous, or harmful conditions within the meaning of the applicable occupational safety and health law, and her work was classified accordingly. This classification of working conditions entailed special entitlements such as seniority allowances and additional leave days, as well as advantageous provisions regarding contribution periods and pension points. The approval of the regional labour inspectorate on which this classification was based was not renewed at the end of 2006. As a result, from 1 January 2007, the claimant's work fell into the category of "normal working conditions", which meant that her previous privileges were no longer applicable. The claimant applied to the court to have her job reclassified as before and to order the employer to pay her the difference in social security contributions. However, under Romanian law, employees have no recourse to legal remedy to request a classification of their activities by the competent authority or a national court. The referring court asks, first, whether this is compatible with EU law and, second, whether Article 11(6) of the OSH Directive, which includes the right of employees to refer the matter to the competent authority if they consider that the measures taken and the means provided by the employer are not sufficient to ensure safety and health protection at work, has direct effect.

The Advocate General considers that there is no direct effect and finds no infringement of the Directive in the present case. Article 9 of the OSH Directive lays down employers' obligations, including the obligation to assess the risks at the workplace and the protective measures to be taken against them. The Advocate General deems these obligations not to include the classification of employees into risk groups or the associated granting of compensation payments such as additional days of leave. He finds in particular that an increase in pension calculation points or a reduction in the retirement age is not related to the promotion of safety and health at work. In his view, the CJEU's reasoning in *Podila and Others*[9] can be applied to this case: here it was decided that the classification of jobs that affects the granting and amount of old-age pensions does not fall within the scope of the Directive.

The Advocate General's assessment is particularly problematic with regard to the direct effect of Article 11(6) of the OSH Directive, as it does not take into account the recent case law of the CJEU in *K.L.*[10] In this case, the CJEU ruled that secondary legislation implementing the principle of effective legal protection under Article 47 of the CFREU is directly applicable, thereby clearly strengthening access to justice.[11] In the present case, Romanian law does not guarantee effective access to authorities or courts for the classification of working conditions – if direct effect were denied, workers would be denied legal protection.

[9] CJEU of 21 March 2018 – C-133/17 and C-134/17 – *Podila and Others*, see HSI Newsletter 1/2018, p. 25.
[10] CJEU of 20 February 2024 – C-715/20 – *K.L.*; see *Klengel/Schlachter* HSI Report 1/2024, p. 4 et seq.
[11] See also *Unseld*, EuZW 2024, 556.

Opinion of Advocate General Sánchez-Bordona of 5 June 2025 – C-345/24 – *AGCOM*

Law: Regulation (EU) 2018/644 on Cross-border Parcel Delivery Services; Ars 14, 114 and 169 TFEU

Keywords: Parcel delivery services without cross-border reference – Information obligations regarding working conditions and legal protection

Core statement: Regulation (EU) 2018/644 applies to all providers of parcel delivery services, regardless of whether they operate nationally or cross-border. National regulatory authorities may impose certain information obligations on providers of parcel delivery services, including information on the financial conditions and legal protection afforded to their employees.

New pending proceedings

Request for a preliminary ruling from the Consiglio di Stato (Italy), received on 13 December 2023 – C-769/23 – *Mara*

Law: Ars 49 and 56 TFEU; Art. 67 Public Procurement Directive 2014/24/EU

Keywords: Public procurement – Lowest price criterion – Binding collective agreement

Note: In a tender by the Italian Ministry of Defence for a service contract for the transport of goods, the criterion of the lowest price was used. This approach was challenged by competitors on the grounds that Italian public procurement law does not provide for this in the case of labour-intensive contracts. In such cases, the best price–quality ratio should be used, in which context the wage level may also be relevant. The referring court of last instance asks whether the freedom of establishment, the free movement of services, the principle of proportionality and Article 67(2) of Directive 2014/24/EU on public procurement preclude the application of this national provision.

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6. Professional law

Decision

Judgment of the Court (Third Chamber) of 3 April 2025 – C-807/23 – *Jones Day*

Law: Art. 45 TFEU

Keywords: Trainee lawyers – Admission to the bar – Recognition of work experience abroad

Core statement: It is contrary to EU law to require that part of the practical training to become a lawyer be completed with lawyers established in that Member State. The lawyers concerned must at least be allowed to prove that the training periods completed abroad are comparable to the training required in the Member State concerned.

Note: The CJEU holds the Austrian requirements for trainee lawyers from other EU countries to obtain a licence to practise law to be incompatible with EU law: it is incompatible with the free movement of workers enshrined in Article 45 TFEU that "periods of service" must necessarily be completed in Austria. The case was brought by a lawyer who was trained in Frankfurt am Main by an Austrian lawyer. Her application for registration on the list of trainee

lawyers was rejected by the bar association on the grounds that her practical training had not been carried out under the supervision of lawyers in Austria.

Opinion

Opinion of Advocate General Rantos of 8 May 2025 – C-115/24 – *Austrian Dental Association*

Regulations: Art. 3(d) Patients' Rights Directive 2011/24/EU; Art. 3 E-Commerce Directive 2000/31/EC; Art. 5(3) Professional Recognition Directive 2005/36/EC

Keywords: Telemedicine – Dental profession – Cross-border healthcare

Core statements: Healthcare providers do not move to another Member State within the meaning of the Professional Recognition Directive when they provide telemedicine services. This would require them to physically cross a border. Healthcare providers are not required to comply with the "professional, legal or administrative" rules applicable there. The freedom of establishment under Article 49 TFEU is precluded if the establishment of economic operators in the host Member State is subject to a licensing requirement and the pursuit of a self-employed activity is reserved for certain economic operators, unless this rule is justified by overriding reasons of general interest.

New pending proceedings

Reference for a preliminary ruling from the Lietuvos vyriausiasis administracinis teismas (Lithuania), lodged on 12 May 2025 – C-324/25 – *Lietuvos krepšinio lyga and Others*

Law: Art. 101(1)(a) TFEU

Keywords: Professional sport – Restriction of competition – COVID-19 pandemic
Explanation: The CJEU has been asked to rule on whether an agreement between basketball clubs and their association not to pay the salaries of basketball players employed by the clubs constitutes a restriction of competition by fixing the purchase price of services within the meaning of Article 101(1)(a) TFEU – and whether the economic and legal context surrounding the outbreak of the COVID-19 pandemic should be taken into account when assessing this agreement.

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7. Social security

Decision

Judgment of the Court (Ninth Chamber) of 12 June 2025 – C-7/24 – *Deutsche Rentenversicherung Nord and BG Verkehr*

Law: Art. 85 Coordination Regulation (EC) 883/2004

Keywords: Fatal accident at work – Right of recourse of the institution

Core statement: A social security institution that pays a widow's or widower's pension may also assert recourse claims against the party responsible for the damage in another Member State if the accident at work occurred in that Member State and no similar pension benefit is

provided there. It is sufficient that the concerned Member States' legislation provides for benefits which, in terms of their subject matter and purpose, are sufficiently comparable overall in respect of an event giving rise to damage, such as an accident at work.

Note: A Danish court referred a question to the CJEU concerning the interpretation of Article 85(1) of the Coordination Regulation. It wanted to know whether a claim for reimbursement by an institution under Article 85(1) requires that the social benefits for which reimbursement is sought are, in essence, comparable to the benefits that injured parties can claim under the legislation of the Member State in which the damage occurred. The background to this was a fatal workplace accident of a German employee in Denmark. As a result of this accident, the employee's widow received compensation for loss of a provider from the party responsible for the damage under Danish law, but no widow's pension. As the deceased employee was subject to the German social security system, the widow also received a widow's pension from the German pension insurance scheme and the statutory accident insurance scheme on the basis of German law (Sec. 46, Book VI, Social Code). Pursuant to Section 116, Book X of the Social Code, the widow's claims against the party responsible for the damage were transferred to the German social security institutions. They demanded reimbursement of the benefits paid to the widow from the party responsible for the damage and its liability insurance. However, this was refused.

Opinions

Opinion of Advocate General Emiliou of 3 April 2025 – C-525/23 – *Oti*

Law: Art. 7(1)(e) REST Directive 2016/801

Keywords: Entry and residence of third-country nationals for research, study and training purposes, among other things – Sufficient means of subsistence

Core statement: Member States cannot rely on the concept of "sufficient resources" to make the granting of a residence permit for research, study and training purposes conditional on the resources having been acquired by the applicants on a permanent basis, that is as a gift and not as a loan, and on the applicants being able to dispose of them without any restrictions. Nor can a residence permit be refused solely on grounds that the information provided by the applicants was inconsistent during the procedure, in particular with regard to the means, their acquisition and their permanence, without giving them the opportunity to clarify this information or informing them that the application could be rejected on these grounds.

Opinion of Advocate General Rantos of 5 June 2025 – C-743/23 – *GKV-Spitzenverband*

Law: Art. 13(1) Regulation (EC) 883/20041 in conjunction with Art. 14(8) Implementing Regulation (EC) 987/2009

Keywords: Migrant workers – Competent state – Substantial part of activities – Working time in third countries

Core statement: When interpreting the term "substantial part of the activities", the entire employment, including that carried out in third countries, must be taken into account.

Note: An employee living in Germany and employed in Switzerland spends the same number of working days in both countries. However, he carries out the majority of his work in third countries. The referring Higher Social Court for the Saarland questions whether these periods of employment should be taken into account when determining the competent state, which would mean that the proportion of work carried out in Germany would be less than 25% and

thus would not constitute a substantial part of the employment within the meaning of Art. 13(1) of the Coordination Regulation in conjunction with Art. 14(8) of the Implementing Regulation. In the opinion of the Advocate General, all places of employment of the person must be taken into account.

Opinion of Advocate General Norkus of 12 June 2025 – C-296/24 – *Jouxy*

Law: Art. 1(i), Art. 67 Coordination Regulation (EC) 883/2004; Art. 7(2) Freedom of Movement Regulation (EU) 492/2011

Keywords: Child benefit – "Family member" – "Providing for upkeep" – Exclusion of the child of the spouse or partner of non-resident workers

Core statement: The term "upkeep" of a child of the spouse or registered partner of a cross-border worker[12] is to be understood as meaning that the child indirectly benefits from the child benefit in question, lives at the joint residence and lives in a family community with the employee concerned.

Note: The applicants in the main proceedings work in Luxembourg but live in various other European countries. Under Luxembourg law, cross-border workers only receive a family allowance for children who fall within the definition of "family members". The Advocate General, on the other hand, takes the view that the decisive factor is whether the cross-border worker is responsible for the upkeep of a child, regardless of whether they are related by descent.

New pending proceedings

Reference for a preliminary ruling from the Corte costituzionale (Italy), lodged on 27 February 2024 – C-151/24 – *Luevi*

Law: Art. 12(1)(e) Singel Permit Directive 2011/98/EU

Keywords: Basic pension supplement – Combined permit – Third-country nationals

Note: Must a basic pension supplement granted to foreign nationals who hold a long-term residence permit in the EU also be extended to foreign nationals who hold a combined permit?

Reference for a preliminary ruling from the Oberster Gerichtshof (Supreme Court, Austria), lodged on 18 February 2025 – C-142/25 – *Pensionsversicherungsanstalt*

Law: Art. 44(2) Implementing Regulation (EC) 987/2009; Title II Coordination Regulation (EC) 883/2004; Art. 21 TFEU

Keywords: Coordination of invalidity benefits and old-age and survivors' pensions – Child-raising periods – Freedom of movement

Note: The Supreme Court refers the question to the CJEU how Article 44(2), first sentence, of the Coordination Regulation is to be interpreted: Does the non-consideration of child-raising periods by the competent Member State include legal provisions which generally do not take child-raising periods into account or only do so in specific cases? The second question also concerns the taking into account of periods of child-raising.

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[12] For the definition, see Art. 1(f) Regulation (EC) 883/2004.

8. Transfer of business

Decisions

Judgment of the Court (Third Chamber) of 3 April 2025 – C-431/23 – *Wibra België*

Law: Art. 5(1) Transfer of Undertakings Directive 2001/23/EC

Keywords: Concept of "insolvency proceedings" – Transfer of undertaking following the opening of insolvency proceedings in the context of judicial restructuring proceedings

Core statement: The exceptional application of the provisions of the Transfer of Undertakings Directive pursuant to Art. 5(1) Transfer of Undertakings Directive covers bankruptcy proceedings carried out following judicial restructuring proceedings, even if an agreement reached in this context on the sale of the undertaking has not been approved by the competent court, provided that the following conditions are met:

- The proceedings were actually instituted for the purpose of liquidating the assets of the transferor,
- They are subject to the supervision of a competent public authority, and
- Recourse to these proceedings is not abusive.

Judgment of the Court (Tenth Chamber) of 19 June 2025 – C-419/24 – *Hôtel Plaza*

Law: Art. 1(1) Directive 98/59/EC on Collective Redundancies

Keywords: Calculation of the size of the undertaking – Inclusion of temporary agency workers – Regular employment in the user undertaking

Core statement: The CJEU is not competent to rule on all legal issues raised by Member States in the event of a collective redundancy. It is not sufficient for a provision to fall within the scope of the Collective Redundancies Directive. Rather, the Directive must impose a specific obligation that is relevant to the facts of the case . This is not the case with the obligation under French law to develop a plan to preserve jobs in the event of collective redundancies. Such an obligation does not arise from EU law.

Explanation: A hotel operator cuts 29 of its 39 jobs because the hotel must close for renovations for a long period of time. An affected employee takes legal action against her dismissal, arguing in particular that the employer has not developed a plan to preserve jobs. Such a plan is required under French law in the event of collective redundancies. The French provisions on collective redundancies only apply to companies with 50 or more employees. However, the hotel also employed temporary workers to carry out maintenance and cleaning tasks. Whether these workers should be taken into account in the threshold calculations, a question which is highly relevant in practice and controversial in the literature,[13] remains undecided even in the present proceedings.[14] This treatment of the scope of application of EU law also allows conclusions to be drawn regarding the overarching question of the demarcation between EU and Member State fundamental rights protection in the (overfulfilling) implementation of EU directives (cf. Art. 51(1) CFREU).[15]

[13] Against taking them into account: *Spelge*, in: Franzen/Gallner/Oetker, Kommentar zum europäischen Arbeitsrecht, 5th ed. 2024, Art. 1 Directive 98/59/EC, marginal No. 30; for the opposing view, see ErfK/*Kiel*, 25th ed. 2025, § 17, marginal No. 12.

[14] The referral of the Federal Labour Court (BAG) of 16 November 2017, 2 AZR 90/17 (A) lost its relevance with the withdrawal of the appeal; see press release 31/18 of the BAG of 12 June 2018.

[15] For more details, see C. *Schubert*, in: Kommentar zum europäischen Arbeitsrecht, loc. cit., Art. 51 CFR, marginal Nos. 37 et seq.

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9. Whistleblowing

New pending proceedings

Reference for a preliminary ruling from the Cour d'appel de Bruxelles (Belgium), received on 28 May 2024 – C-376/24 – *FSMA*

Law: Art. 3 Market Abuse Directive 2003/6; Market Abuse Regulation 596/2014; Whistleblower Directive (EU) 2019/1937

Keywords: Public disclosure of "inside information" – Protection of whistleblowers

Note: In the proceedings, a politician invokes the protection for whistleblowers who themselves have no employment relationship with the criticised company; however, the Whistleblower Directive itself is not the subject of the questions of interpretation. A politician, former minister and member of an opposition party, disclosed insider information in the media (radio and print media websites) to stimulate public debate on a privatisation project. The question arises whether the scope of the Market Abuse Regulation is limited to journalists or includes persons such as politicians.

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III. Proceedings before the ECtHR

Compiled and commented by Karsten Jessolat, DGB Rechtsschutz GmbH, Gewerkschaftliches Centrum für Revision und Europäisches Recht, Kassel

1. Freedom of association

New pending cases (notified to the respective government)

No. 10992/24 – *Pálsdóttir v. Iceland* (Third Section) – lodged on 11 April 2024 – communicated on 4 April 2025

Law: Art. 11 ECHR (freedom of assembly and association)

Keywords: Change of trade union membership – One company, one trade union

Note: The complaint concerns the question of whether employers are obliged to apply the collective agreements negotiated by another trade union after employees have changed to that union. The national courts dismissed the applicant's claim on the grounds that, under the statutory provisions, employers are entitled to conduct collective bargaining with only one trade union on behalf of their employees. This also applied even if the employees themselves had the right to freely decide which trade union to join. Therefore, employers were not obliged to apply the collective agreements of other trade unions.

The Court will have to decide whether an indirect obligation on employees to join the trade union that concludes collective agreements with their employer violates the freedom of association enshrined in Article 11 of the ECHR.[16]

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2. Freedom of expression

New pending cases (notified to the respective government)

No. 24886/23 – *Harutyunyan v. Armenia* (Fifth Section) – lodged on 1 November 2023 – communicated on 23 April 2025

Law: Art. 10 ECHR (freedom of expression); Art. 8 ECHR (right to respect for private and family life); Art. 6 ECHR (right to a fair trial)

Keywords: Dismissal from the judiciary – Public criticism of the chair of the Supreme Judicial Council – Decision in absentia

Note: The applicant was dismissed following a decision by the Supreme Judicial Council (SJC), which is responsible for disciplinary supervision of the country's judges, after he had publicly accused the chair of that body of lacking impartiality. The complainant was excluded from an oral hearing on the allegations and the decision was taken in his absence and in the absence of his legal representative.

[16] ECtHR of 27 April 2010 – No. 20161/06 – *Vörður Ólafsson v. Iceland*; ECtHR of 11 January 2006 – Nos. 52562/99 and 52620/99 – *Sørensen and Rasmussen v. Denmark*.

It must be examined whether an interference with the complainant's right to freedom of expression was justified under the conditions of Article 10 of the ECHR.[17] A further question is whether the exclusion of the applicant from the oral hearing was contrary to the principle of publicity and thus also violated the principle of equality of arms.[18] Finally, the Court will have to decide whether the applicant's dismissal constituted an interference with his private life.[19]

No. 36840/24 – *Chiariglione v. Italy* (First Section) – lodged on 5 December 2024 – communicated on 22 April 2025

Law: Art. 10 ECHR (freedom of expression)

Keywords: Military personnel – Suspension from duty – Public criticism of the handling of the Covid-19 pandemic

Note: The applicant, a member of the Italian army, was suspended from duty for twelve months, which entailed a 50% reduction in pay during that period. He had previously criticised the Italian military leadership's handling of the Covid-19 pandemic within the army in a video posted on YouTube.

The complainant believes that the disciplinary measure interferes with his freedom of expression and is therefore not only unlawful but also disproportionate.[20]

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3. Procedural law

Decisions

Judgment (Third Section) of 3 June 2025 – No. 3592/17 – *Zuvić v. Serbia*

Law: Art. 6 ECHR (right to a fair trial)

Keywords: Disciplinary proceedings – Change in the organisation of the judiciary – Change in the jurisdiction of state courts – No decision on the merits by a court

Core statement: Changes to the organisation of the state judicial system are beyond the sphere of influence of a plaintiff and, particularly in the case of changes to jurisdiction rules, must not result in access to a court being denied.

Note: The applicant, a former professional soldier in the army of the Federal Republic of Yugoslavia, was dismissed from military service in 2002 as a result of disciplinary proceedings. After the establishment of the State Union of Serbia and Montenegro, the action brought against this decision was transferred by a Serbian court to a Montenegrin military court, as this was where the applicant had performed his military service. Following the dissolution of the State Union in 2006, the Montenegrin court declared that it lacked jurisdiction, as Serbia had declared itself to be its sole legal successor. The legal dispute was then referred to a court there. The Serbian court dismissed the action in 2015 on the grounds that the complainant should have applied for the disciplinary order to be overturned in Montenegro.

[17] ECtHR of 23 June 2016 – No. 20261/12 – *Baka v. Hungary*.
[18] ECtHR of 6 November 2018 – No. 55391/13 – *Ramos Nunes de Carvalho e Sá v. Portugal*; ECtHR of 26 July 2018 – No. 10978/06 – *Bartaia v. Georgia*; ECtHR of 1 March 2006 – *Sejdovic v. Italy*.
[19] ECtHR of 9 January 2013 – No. 21722/11 – *Oleksandr Volkov v. Ukraine*.
[20] ECtHR of 29 March 2016 – No. 56925/08 – *Bédat v. Switzerland*; ECtHR of 15 October 2015 – No. 27510/08 – *Perinçek v. Switzerland*; ECtHR of 7 February 2012 – No. 39954/08 – *Axel Springer AG v. Germany*.

The national Constitutional Court awarded the complainant compensation of €900 for the excessive length of the proceedings.

The applicant argued before the Court that he had been denied access to a court because the domestic courts had not ruled on the merits of his claim, but had merely dismissed it as a result of a conflict of jurisdiction between the domestic courts.

The Court reaffirms that Article 6 of the ECHR embodies a principle of the rule of law and is intended to protect against arbitrary exercise of power.[21] Therefore, the right of access to a court must not only exist in theory, but must also be practical and effective, particularly given its outstanding importance in a democratic society.[22] The actions of the domestic courts do not satisfy these requirements. Dismissing the applicant's action on grounds of lack of jurisdiction without addressing the substance of the dispute appears overly formalistic. This is not precluded by the logistical challenges associated with the dissolution of the State Union of Serbia and Montenegro and the demarcation of the jurisdictions of the respective courts in the newly formed countries. In any event, these circumstances are beyond the applicant's control and must not therefore result in the loss of his right of access to a court.

For these reasons, the Court found a violation of Article 6 of the ECHR and ordered the respondent Government to pay compensation of €3,600 to the applicant.

Judgment (First Section) of 9 May 2025 – No. 56297/21 – *Sadomski v. Poland*

Law: Art. 6 ECHR (right to a fair trial)

Keywords: Rejection of an application – Successful appeal – Prevention of enforcement by prior filling of the position elsewhere

Core statement: The enforcement of a judgment by a state court is an integral part of judicial proceedings within the meaning of Art. 6 ECHR, so that the right protected thereby is deprived of its effectiveness if a final court decision is not implemented.

Note: In 2018, the complainant applied for the position of judge in a civil chamber of the Supreme Court of Poland. The National Council of the Judiciary (NCJ), whose members have been appointed by a majority of the parliament since 2018,[23] proposed seven of the 27 applicants for appointment by the president, without considering the applicant's application. The complainant brought an action against the negative decision before the competent Supreme Administrative Court. The latter initially issued a temporary injunction suspending the appointment of the selected candidate to the relevant judicial post. Nevertheless, the president appointed the candidate proposed by the NCJ as judge while the complainant's legal proceedings were still ongoing. In the main proceedings, the Supreme Administrative Court overturned the NCJ's decision to appoint the selected candidate. The complainant then had no further opportunity to have his application reviewed.

The complaint alleges that the judicial review of the appeal was insufficient, as the judgment in his favour could no longer have any practical effect for him. He therefore did not have an effective remedy within the meaning of Article 6 of the ECHR.

[21] ECtHR of 15 March 2022 – No. 43572/18 – *Grzęda v. Poland*; ECtHR of 5 April 2018 – No. 40160/12 – *Zubac v. Croatia*.

[22] ECtHR of 29 November 2016 – No. 76943/11 – *Lupeni Greek Catholic Parish and Others v. Romania*; ECtHR of 12 July 2001 – No. 42527/98 – *Prince Hans-Adam II of Liechtenstein v. Germany*.

[23] The Court has repeatedly pointed out the lack of independence of the NCJ from the legislative and executive branches: ECtHR of 23 November 2023 – No. 50849/21 – *Wałęsa v. Poland*; ECtHR of 3 February 2022 – No. 43572/18 – *Grzęda v. Poland* (see HSI Report 1/2022, p. 29); ECtHR of 3 February 2022 – No. 4069/20 – *Advance Pharma sp. z o.o v. Poland*; ECtHR of 8 November 2021 – Nos. 49868/19 and 57511/19 – *Dolińska-Ficek and Ozimek v. Poland*; ECtHR of 22 July 2021 – No. 43447/19 – *Reczkowicz v. Poland*; ECtHR of 29 June 2021 – No. 26691/18 – *Broda and Bojara v. Poland*; ECtHR of 7 May 2021 – No. 4907/18 – *Xero Flor w Polsce sp. z o.o. v. Poland* (see HSI Report 2/2021, p. 26 et seq.).

The Court emphasises once again that the right to a fair trial is an essential feature of the rule of law.[24] It is inherent in the concept of judicial review that an appeal court must be able to overturn a lower court's decision and replace it with its own decision. However, it also follows that a final decision cannot be deprived of its enforceability by the contested judgment's being implemented before it becomes final. The enforcement of a final judgment is an integral part of the judicial process within the meaning of Article 6 of the ECHR.[25]

Since the appointment of the candidate proposed by the NCJ created a fait accompli that could no longer be reversed despite the contrary decision of the domestic court, the applicant had no effective remedy available to him. The Court therefore found a violation of Article 6 of the ECHR.

In a concurring opinion, Judge Adamska-Gallant agreed with the Court's legal opinion and further emphasised the importance of Article 6 of the ECHR for the proper administration of justice, which guarantees legal certainty and prevents arbitrariness.

New proceedings (notified to the respective government)

No. 849/21 – *Veljkovikj-Josifovska v. North Macedonia* (Second Section) – lodged on 15 December 2020 – communicated on 5 May 2025

Law: Art. 6 ECHR (right to a fair trial)

Keywords: Entitlement to ministerial salary allowance – Contradictory decisions by domestic courts

Note: The applicant received an allowance during her employment at the Ministry of Finance, which was discontinued after she was transferred to another authority. Her claim was dismissed on the grounds that the allowance was conditional on her employment at the Ministry. Other applicants in similar situations were successful before other domestic courts.

In response to the complaint, the Court will have to examine whether the contradictory decisions of the courts violated the principle of the rule of law,[26] and whether the decision in the complainant's case was sufficiently justified in this respect.[27]

No. 51258/18 – *Czerwiński v. Poland* (First Section) – lodged on 24 October 2018 – communicated on 25 April 2025

Law: Art. 6 ECHR (right to a fair trial); Art. 8 ECHR (right to respect for private and family life)

Keywords: Dismissal from military service – Revocation of a security clearance

Note: The applicant was dismissed from military service because his security clearance was revoked by military counter-intelligence and he therefore no longer met the requirements for performing his duties.

[24] ECtHR of 3 February 2022 – No. 1469/20 – *Advance Pharma sp. z o.o v. Poland*.

[25] ECtHR of 11 January 2018 – No. 10613/16 – *Sharxhi and Others v. Albania*; ECtHR of 19 March 1997 – No. 18357/91 – *Hornsby v. Greece*.

[26] ECtHR of 29 November 2016 – No. 76943/11 – *Lupeni Greek Catholic Parish and Others v. Romania*; ECtHR of 18 July 2013 – No. 29784/07 – *Stoilkovska v. the former Yugoslav Republic of Macedonia*; ECtHR of 25 April 2013 – No. 45117/08 – *Balažoski v. the former Yugoslav Republic of Macedonia*.

[27] ECtHR of 16 July 2024 – Nos. 41373/21 and 48801/21 – *Meli and Swinkels Family Brewers N. V. v. Albania*; ECtHR of 21 July 2015 – No. 41721/04 – *Deryan v. Turkey*; ECtHR of 14 January 2010 – No. 36815/03 – *Atanasovski v. the former Yugoslav Republic of Macedonia*.

The complainant asserts that he was not granted a fair trial because he was denied access to evidence due to its classification as "secret", thereby violating the principle of equality of arms.[28] In addition, he claims that the loss of his job constitutes an inadmissible interference with his private life.

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4. Prohibition of discrimination

(In)admissibility decisions

Decision (First Section) of 15 May 2025 – No. 29265/22 – *D.J. v. Slovenia*

Law: Art. 14 ECHR (prohibition of discrimination) in conjunction with Art. 8 ECHR (right to respect for private and family life)

Keywords: Protection against dismissal for pregnant women – Different treatment of senior executives and female employees

Key message: The less favourable treatment of senior executives compared to female employees with regard to protection against dismissal due to pregnancy is objectively justified due to the prominent role of this group of people within the company.

Note: The complainant was an authorised signatory of a municipal enterprise from 2011. It was contractually agreed that her employment as a senior executive would end when her signatory power expired and that the employer would then continue to employ her as an employee in a position commensurate with her knowledge and skills. On 31 January 2014, her signatory power expired and the company declared the employment relationship with the complainant terminated. On 5 February 2014, she informed her employer that she was pregnant, which she had learned on 27 January 2014, and demanded that it continue the employment relationship due to the resulting statutory protection against dismissal. The company refused to continue her employment on the grounds that protection against dismissal for pregnant women only applied to dismissals by the employer, but not to other forms of termination of employment. The national courts dismissed an appeal against this decision in the final instance.

The applicant claims that, as a senior executive, she is treated less favourably than other female employees who are protected against dismissal under domestic law on the grounds of pregnancy, without there being any objective justification for this. She therefore alleges a violation of Article 14 of the ECHR in conjunction with Article 8 of the ECHR.

The Court first emphasises that the distinction made by the national courts between dismissals by employers and other grounds for termination, in particular those agreed by contract, is not unreasonable. Even if the requirements of Article 14 of the ECHR were to be met in the present case, the different treatment of the applicant as a senior executive in relation to pregnant employees is objectively justified. A woman with signatory power in a company regularly occupies a prominent position compared to female employees and is largely independent of the employer's instructions. Denying her protection against dismissal on the grounds of pregnancy is therefore not unreasonable for objective reasons.

The complaint was therefore rejected as manifestly unfounded within the meaning of Article 35(3) of the ECHR and declared inadmissible.

[28] ECtHR of 19 September 2017 – No. 35289/11 – *Regner v. Czech Republic*.

New pending cases (notified to the respective government)

No. 35357/24 – *Mujanović v. Bosnia and Herzegovina* (Fourth Section) – lodged on 26 November 2024 – communicated on 9 May 2025

Law: Art. 14 ECHR (prohibition of discrimination) in conjunction with Art. 9 ECHR (freedom of thought, conscience and religion)

Keywords: Military service – Wearing of a hijab – Prohibition

Note: The applicant is a member of the armed forces. Due to a regulation on the proper wearing of a uniform, she is prohibited from wearing a traditional Islamic headscarf while on duty. She claims that this constitutes discrimination on religious grounds compared to Muslim men, who are allowed to wear beards as an expression of Islamic tradition.

The complaint concerns the questions of whether the prohibition prevents the complainant from exercising her freedom of religion[29] and whether she is discriminated against in the exercise of this right.[30]

No. 39591/23 – *Maniscalchi v. Italy* (First Section) – lodged on 25 October 2023 – communicated on 1 April 2025

Law: Art. 14 ECHR (prohibition of discrimination); Art. 1 Protocol No. 1 (protection of property)

Keywords: Entitlement to disability pension – Differentiation between civil servants and public sector employees

Note: The applicant was dismissed prematurely from her position as a public sector employee due to incapacity for work. Under national law, in such cases, a disability pension independent of age and contributions can be claimed. The claim must be asserted within a certain period, which applies only to employees but not to civil servants. The complainant's application was rejected on the grounds that, as an employee, she had missed the deadline for application.

The applicant alleges a violation of Article 14 of the ECHR in conjunction with Article 1 of Protocol No. 1 due to the different treatment of civil servants and employees.[31]

No. 15638/23 – *Ivandić v. Croatia* (Second Section) – lodged on 3 April 2023 – communicated on 13 May 2025

Law: Art. 8 ECHR (right to respect for private and family life) in conjunction with Art. 14 ECHR (prohibition of discrimination); Art. 6 ECHR (right to a fair trial)

Keywords: Rejection of an application – Bias due to the applicant's wife being employed in the same position

Note: The applicant's application for a promotion was rejected on the grounds that his wife was employed in a comparable position at the same authority.

[29] ECtHR of 5 December 2017 – No. 57792/15 – *Hamidović v. Bosnia and Herzegovina*; ECtHR of 26 November 2015 – No. 64846/11 – *Ebrahimian v. France*; ECtHR of 15 January 2013 – Nos. 48420/10, 59842/10, 51671/10 and 36516/10 – *Eweida and Others v. United Kingdom*.

[30] ECtHR of 15 January 2013 – Nos. 48420/10, 59842/10, 51671/10 and 36516/10 – *Eweida and Others v. United Kingdom*; ECtHR of 24 January 2006 – No. 65500/01 – *Kurtulmuş v. Türkiye*; ECtHR of 15 January 2001 – No. 42393/98 – *Dahlab v. Switzerland*.

[31] ECtHR of 9 June 2022 – No. 49270/11 – *Savickis and Others v. Latvia*; ECtHR of 5 September 2017 – No. 78117/13 – *Fábián v. Hungary*; ECtHR of 13 July 2010 – No. 7205/07 – *Clift v. United Kingdom*; ECtHR of 15 September 2009 – No. 10373/05 – *Moskal v. Poland*; ECtHR of 18 February 2009 – No. 55707/00 – *Andrejeva v. Latvia*; ECtHR of 12 April 2006 – No. 65731/01 and 65900/01 – *Stec and Others v. United Kingdom*.

The ECtHR's decision will hinge on whether the rejection of the application constitutes an interference with private life[32] and whether the applicant is disadvantaged because of his marital status.[33] Furthermore, it must be examined whether the application procedure before the national authorities is protected by Art. 6 ECHR.[34]

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6. Protection of privacy

New pending cases (notified to the respective government)

No. 17711/23 – *Dani v. Albania* (Third Section) – lodged on 19 April 2023 – communicated on 14 May 2025

Law: Art. 8 ECHR (right to respect for private and family life)

Keywords: Admission to legal training – Brother convicted of involvement in organised crime

Note: The applicant was not admitted to legal training because her brother had been convicted of offences related to organised crime.

The question is whether this was sufficient grounds to deny her access to public office and whether this constituted an interference with her right protected by Art. 8 ECHR.[35]

No. 19185/23 – *Pilosyan v. Armenia* (Fifth Section) – lodged on 5 May 2023 – communicated on 23 April 2025

Law: Art. 8 ECHR (right to respect for private and family life); Art. 6 ECHR (right to a fair trial)

Keywords: Dismissal from the judiciary – Delayed pronouncement of judgments – Disciplinary offence

Note: The applicant was dismissed from the judiciary due to a decision by the Supreme Judicial Council (SJC), which is responsible for disciplinary supervision of the country's judges. She was accused of having delivered judgments in four cases after the expiry of the statutory time limits, thereby violating procedural rules.

The applicant alleges a violation of Article 6 of the ECHR, as she was denied the opportunity to comment on the allegations.[36] Furthermore, she claims that her dismissal was disproportionate and violated Article 8 of the ECHR.[37]

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[32] ECtHR of 16 December 2021 – No. 44691/14 – *Budimir v. Croatia*; ECtHR of 25 September 2018 – No. 76639/11 – *Denisov v. Ukraine*.
[33] ECtHR of 2 November 2010 – No. 3976/05 – *Şerife Yiğit v. Turkey*.
[34] ECtHR of 19 July 2011 – No. 16924/08 – *Majski v. Croatia*.
[35] ECtHR of 25 September 2018 – No. 76639/11 – *Denisov v. Ukraine*.
[36] ECtHR of 15 December 2016 – Nos. 15275/11 and 76058/12 – *Colloredo Mannsfeld v. Czech Republic*; ECtHR of 26 July 2011 – No. 58222/09 – *Juričić v. Croatia*.
[37] ECtHR of 9 January 2013 – No. 21722/11 – *Oleksandr Volkov v. Ukraine*.

5. Protection of property

Decisions

Judgment (Third Section) of 3 June 2025 – Nos. 20641/20 and 20644/20 – *Selimi and Krasnići v. Serbia*

Law: Art. 1 Protocol No. 1 (protection of property); Art. 6 ECHR (right to a fair trial)

Keywords: Discontinuation of state old-age pension – International administration of Kosovo – Right to an effective remedy

Core statement: If proceedings before state authorities or courts are not concluded even after many years, the fact that claimants die of old age before an administrative or judicial decision is made is sufficient proof that there was no possibility of an effective remedy.

Note: Since 1990 and 1985, respectively, the complainants had been receiving a state old-age and disability pension from the Serbian Pension and Disability Fund (SPDIF), which was paid out by the Kosovar branch of the SPDIF. After Kosovo was placed under international administration following NATO's military intervention in 1999, the SPDIF suspended pension payments to the complainants on the grounds that the Serbian authorities were no longer able to collect the ongoing pension insurance contributions to finance pension payments in Kosovo.

Beginning immediately after the suspension of pension payments, the complainants repeatedly requested the SPDIF to pay the state pension since 1999 and to continue paying it in the future, but their requests were not granted. It was not until 2013 and 2017, respectively, that the SPDIF issued negative decisions that were subject to appeal. Appeals lodged against these decisions were rejected by the SPDIF in 2022 on the basis of questionable decisions, some of which were based on alleged formal errors. At the time the complaint was lodged with the Court in 2020, no decision had yet been made on the appeals lodged against these decisions.

The complainants died in 2024 and 2021, respectively. Their heirs continued the legal proceedings both before the domestic courts and before the Court of Justice as legal successors.

The complaint alleges an interference with the right to protection of property due to the suspension of pension payments. In addition, the applicants complain of a violation of Article 6 of the ECHR due to the excessive length of the proceedings.

With regard to the admissibility of the complaint under Article 35(1) of the ECHR, the Court considers that the applicants had no effective remedy against the future denial of the pension due to the delay in the proceedings by the domestic authorities.[38]

In its judgment in *Grudić v. Serbia*,[39] the Court had already pointed out that the suspension of the old-age pension by the SPDIF was not in accordance with Serbian law due to the international administration of Kosovo. This case law is applicable to the present case before the Court. In particular, it must be taken into account that the applicants had no opportunity to effectively challenge the violation of Article 1 of Protocol No. 1. This is supported above all by the fact that the applicants died before the conclusion of the protracted administrative and judicial proceedings.

[38] ECtHR of 21 May 2002 – No. 28856/95 – *Jokela v. Finland*; ECtHR of 22 September 1994 – No. 13616/88 – *Hentrich v. France*; ECtHR of 24 October 1986 – No. 9118/90 – *AGOSI v. United Kingdom*.
[39] ECtHR of 17 April 2012 – No. 31952/08 – *Grudić v. Serbia*.

National courts have a special duty of care in cases involving disputes over the payment of state pensions. Appropriate measures must be taken within a reasonable time, as the swift resolution of these proceedings is often of vital importance to the claimants due to their age.[40] Measured against this standard, the domestic courts did not resolve the proceedings within a reasonable time.

The Court therefore found a violation of both Article 1 of Protocol No. 1 and Article 6 of the ECHR and awarded the applicants' heirs compensation of €5,000 and €2,000, respectively.

Judgment (Second Section) of 10 June 2025 – Nos. 34280/17 and 71800/17 – *Al and Demirci v. Türkiye*

Law: Art. 1 Protocol No. 1 (protection of property)

Keywords: Entitlement to a pension supplement – Late payment after successful legal action – Consideration of inflation-related loss of value

Core statement: Even if, in principle, inflation-related loss of value of a claim is not protected by Article 1 of Protocol No. 1, a significant deviation from its value at the time of its creation compared to its value on the date of fulfilment may constitute a disproportionate interference with property rights.

Note: The complainant Al and the complainant Demirci's father, who has since died, had been receiving old-age pensions since 1993 and 1989, respectively. They claimed a further retirement allowance from the social security institution, which was initially denied to them because they allegedly did not meet the necessary requirements. After successful legal proceedings, they were awarded the retirement allowance as a one-time compensation payment in 2013. The social security institution calculated the allowances on the basis of the pension payable at the time of retirement and paid amounts of approximately €20 and €4.40, respectively. The complainants brought legal action against this, demanding payment of the retirement allowances taking into account the inflation rates of 44.772% and 312.727% applicable at the time of payment, which would have corresponded to compensation of €9,290 and €13,700, respectively. The domestic courts ruled against the complainants.

The applicants argued before the Court that the massive inflation-related loss in value of the retirement allowance, which was not compensated by the social security institution, constituted an interference with their property rights protected by Article 1 of Protocol No. 1.

According to the case law of the Court, interference by the state with the right to protection of property is only permissible if the public interest justifying the interference is weighed against the interests of the individual.[41] It is true that states are not obliged to take measures to compensate for the rate of inflation and to preserve assets.[42] However, a significant discrepancy between the value of a claim at the time it arises and its value at the time of fulfilment may upset the fair balance between public and private interests, which would violate the right to protection of property.[43] In view of the enormous loss in value of the retirement allowances due to the exorbitant rate of inflation since the claim arose, the Court found that the interference with the right to protection of property was no longer proportionate in the present case. There is therefore a violation of Article 1 of Protocol No. 1. The applicants were awarded compensation of €6,800 and €4,500, respectively.

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[40] ECtHR of 26 June 2006 – No. 38550/02 – *Počuča v. Croatia*; ECtHR of 11 October 2001 – No. 38073/97 – *H. T. v. Germany*.

[41] ECtHR of 5 January 2000 – No. 33202/96 – *Beyeler v. Italy*.

[42] ECtHR of 22 April 2010 – No. 55213/07 – *Cular v. Croatia*; ECtHR of 13 May 2008 – No. 65850/01 – *Todorov v. Bulgaria*.

[43] ECtHR of 12 January 2021 – No. 37873/08 – *Ant v. Turkey*; ECtHR of 12 February 2019 – No. 22388/07 – *Zeki Kaya v. Turkey*; ECtHR of 8 November 2007 – No. 45116/98 – *Kalinova v. Bulgaria*; ECtHR of 12 June 2006 – No. 38667/02 – *Ertuğrul Kılıç v. Turkey*; ECtHR of 9 March 2006 – No. 10162/02 – *Eko-Elda AVEE v. Greece*.

New pending cases (notified to the respective government)

No. 64293/12 – *Pozdnyakov v. Ukraine* (Fifth Section) – lodged on 28 September 2012 – communicated on 13 May 2025

Law: Art. 6 ECHR (right to a fair trial); Art. 1 Protocol No. 1 (protection of property); Art. 13 ECHR (right to an effective remedy)

Keywords: Old-age pension – Change of residence – Failure of the newly competent branch of the social security institution to comply with a court decision

Note: The complainant received a statutory old-age pension, the amount of which had to be adjusted due to a court decision. The increased pension was paid to him by the local branch of the social security institution. After the complainant permanently changed his place of residence, the branch office that was now locally competent only paid the old-age pension in the amount granted before the legal dispute. The appeals lodged against this were rejected on the grounds that the amount of the pension had already been decided with legal effect.

The primary issue to be assessed here is whether the failure to implement a final judgment issued against a social security institution competent under national law must be taken into account by another branch office following a change of jurisdiction. In particular, it is important to determine whether the complainant had an effective right of access to a court.[44]

Nos. 32470/22 and 4227/24 – *Biancardi and Others and Romeo v. Italy* (First Section) – lodged on 13 June 2022 and 27 January 2024 – communicated on 13 May 2025

Law: Art. 1 Protocol No. 1 (protection of property)

Keywords: Recovery of remuneration – Revocation of a commitment based on a settlement

Note: The applicants, employees of the Italian Red Cross (C.R.I.), received salary increases in connection with their professional advancement. Due to legal uncertainty as to whether the entitlement continued beyond 2002, it was agreed with the employer that the higher salary would continue to be paid without recognition of any legal obligation. In 2008, the C.R.I. revoked its commitment and demanded that the complainants repay the amounts paid up to that point.

The subject of the complaint is the assessment of whether there was a legal basis for the recovery within the meaning of Article 1 of Protocol No. 1 and whether the complainants were unreasonably burdened by a repayment.[45]

No. 54277/18 – *Cojocaru v. Republic of Moldova* (Fifth Section) – lodged on 12 November 2018 – communicated on 1 April 2025

Law: Art. 6 ECHR (right to a fair trial); Art. 1 Protocol No. 1 (protection of property)

Keywords: Compensation for retirement – Severance pay as protected property

Note: The applicant retired from the public prosecutor's office after 40 years of service. Under domestic law, she was entitled to severance pay upon retirement. The complainant and the domestic authorities disagreed on how this should be calculated, as the latter applied a legal

[44] ECtHR of 7 May 2002 – No. 59498/00 – *Burdov v. Russia*.
[45] ECtHR of 11 February 2021 – No. 4893/13 – *Casarin v. Italy*.

provision that had been amended in the meantime. A claim for payment of the higher compensation was unsuccessful.

In addition to the question of adequate reasoning for court decisions within the meaning of Article 6 of the ECHR, it will be necessary to examine, in particular, whether a one-time payment in the case of termination of employment or service falls within the scope of protection of Article 1 of Protocol No. 1.[46]

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Contact and Copyright
Hugo Sinzheimer Institute for Labour and Social Security Law (HSI)
of the Hans Böckler Foundation
Wilhelm-Leuschner-Strasse 79
60329 Frankfurt
Telephone +49 69 6693-2953
hsi@boeckler.de
www.hugo-sinzheimer-institut.de
You can also find us on Twitter: twitter.com/ArbeitsrechtHSI

The Hans Böckler Foundation is a foundation under private law.
Authorised representative: Dr Claudia Bogedan (Managing Director)
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[46] ECtHR of 1 June 2023 – No. 24827/14 – *Fu Quan, s.r.o. v. Czech Republic*; ECtHR of 13 December 2016 – No. 53080/13 – *Béláné Nagy v. Hungary*; ECtHR of 20 March 2018 – Nos. 37685/10 and 22768/12 – *Radomilja v. Croatia.*