

SUMMARY

ECJ 28 June 2018, C-2/17 (Crespo Rey), Social Insurance

Instituto Nacional de la Seguridad Social (INSS) – v – Jesús Crespo Rey, Spanish Case

Question

Must the Agreement on the free movement of persons be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, which obligates a migrant worker who concludes a special agreement with the social security system of that Member State to make contributions in accordance with the minimum contribution basis, with the result that, when the theoretical amount of that worker's retirement pension is calculated, the competent body of that Member State treats the period covered by that agreement as a period completed in that Member State and will take into consideration, for the purposes of that calculation, only the contributions paid by the worker under that agreement, even though, before exercising his right to free movement, the latter made contributions in that Member State in accordance with contribution bases higher than the minimum, and a non-migrant worker who did not exercise his right to free movement and who concludes such an agreement has the possibility of making contributions in accordance with contribution bases higher than the minimum?

Ruling

The Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, signed at Luxembourg on 21 June 1999, must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, which obligates a migrant worker who concludes a special agreement with the social security system of that Member State to make contributions in accordance with the minimum contribution basis, with the result that, when the theoretical amount of that worker's retirement pension is calculated, the competent body

of that Member State treats the period covered by that agreement as a period completed in that Member State and will take into consideration, for the purposes of that calculation, only the contributions paid by the worker under that agreement, even though, before exercising his right to free movement, that worker made contributions in that Member State in accordance with contribution bases higher than the minimum, and a non-migrant worker who did not exercise his right to free movement and who concludes such an agreement has the option of making contributions in accordance with contribution bases higher than the minimum.

Creator: European Court of Justice (ECJ)

Verdict at: 2018-06-28

Case number: C-2/17