

SUMMARY

## **ECJ 19 September 2019, joined cases C-95/18 and C-96/18 (Van den Berg en Giesen)**

***Sociale Verzekeringsbank – v – F. van den Berg (C-95/18), H. D. Giesen (C-95/18), C. E. Franzen (C-96/18), Dutch case***

### **Questions**

Must Articles 45 and 48 TFEU be interpreted as precluding a law of a Member State under which a migrant worker residing in that Member State, who is subject to the social security legislation of the Member State of employment under Article 13 of Regulation No 1408/71, is not insured for the purposes of the social security scheme of that Member State of residence, despite the fact that the legislation of the Member State of employment does not confer on that worker any entitlement to an old-age pension or child benefit.

Must Article 13 of Regulation No 1408/71 be interpreted as precluding a Member State in whose territory a migrant worker resides and which is not competent under that article, from making an entitlement to an old-age pension conditional on that migrant worker having insurance that entails payment of mandatory contributions.

### **Ruling**

Articles 45 and 48 TFEU must be interpreted as not precluding a law of a Member State under which a migrant worker residing in the territory of that Member State, who is subject to the social security legislation of the Member State of employment under Article 13 of Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community, in its version amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, as amended by Regulation (EC) No 1992/2006 of the European Parliament and of the Council of 18 December

2006, is not insured for the purposes of the social security scheme of that Member State of residence, despite the fact that the legislation of the Member State of employment does not confer on that worker any entitlement to an old-age pension or child benefit.

Article 13 of Regulation No 1408/71, in its version amended and updated by Regulation No 118/97, as amended by Regulation No 1992/2006, must be interpreted as precluding a Member State on whose territory a migrant worker resides, and which is not competent under that article, from making an entitlement to an old-age pension conditional on that migrant worker having insurance that entails payment of mandatory contributions.

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**Creator:** European Court of Justice (ECJ)

**Verdict at:** 2019-09-19

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