

SUMMARY

ECJ 23 January 2020, case C-29/19 (Bundesagentur für Arbeit), Social insurance

ZP - v - Bundesagentur für Arbeit, German case

Summary

German provisions disregarding salary obtained under another jurisdiction when calculating unemployment benefits found contrary to Regulation 883/2004.

Questions

Must Article 62(1) and (2) of Regulation No 883/2004 be interpreted as precluding legislation of a Member State which, while providing that the calculation of unemployment benefits is to be based on the amount of the previous salary, does not allow — where the period during which the person concerned was in receipt of a salary in respect of his or her last activity as an employed person pursued under that legislation is shorter than the reference period laid down by that legislation for determining the salary to be used as the basis for calculating unemployment benefits — for account to be taken of the salary received by the person concerned in respect of that activity?

Must Article 62(1) and (2) of Regulation No 883/2004 be interpreted as precluding legislation of a Member State which, while providing that the calculation of unemployment benefits is to be based on the amount of the previous salary, does not allow — where the salary received by the person concerned in respect of the last activity pursued as an employed person under that legislation was not calculated or paid until after his or her employment relationship came to an end — for account to be taken of the salary received by the person concerned for that activity?

Ruling

Article 62(1) and (2) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems must be interpreted as precluding legislation of a Member State which, while providing that the calculation of unemployment benefits is to be based on the amount of the previous salary, does not allow — where the period during which the person concerned was in receipt of a salary in respect of his or her last activity as an employed person pursued under that legislation is shorter than the reference period laid down by that legislation for determining the salary to be used as the basis for calculating unemployment benefits — for account to be taken of the salary received by the person concerned in respect of that activity.

Article 62(1) and (2) of Regulation (EC) No 883/2004 must be interpreted as precluding legislation of a Member State which, while providing that the calculation of unemployment benefits is to be based on the amount of the previous salary, does not allow — where the salary received by the person concerned in respect of the last activity pursued as an employed person under that legislation was not calculated or paid until after his or her employment relationship came to an end — for account to be taken of the salary received by the person concerned for that activity.

Creator: European Court of Justice (ECJ)

Verdict at: 2020-01-23

Case number: C-29/19