

SUMMARY

ECJ 5 May 2022, case C-101/21 (HJ - and de directeur d'une société), Insolvency

HJ - v - Ministerstvo práce a sociálních věcí, Czech case

Summary

The Insolvency Protection Directive applies to an employee who is director and statutory board member at the same time.

Question

Must Article 2(2) and Article 12(a) and (c) of Directive 2008/94 be interpreted as precluding national case-law according to which a person who, on the basis of a contract of employment, performs concurrently the duties of CEO and member of a statutory body of a company cannot be regarded as an employee and, consequently, cannot benefit from the guarantees provided for by that directive?

Ruling

Article 2(2) and Article 12(a) and (c) of Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer, as amended by Directive (EU) 2015/1794 of the European Parliament and of the Council of 6 October 2015, must be interpreted as precluding national case-law according to which a person who, on the basis of a valid contract of employment under national law, performs concurrently the duties of chief executive officer and of a member of a statutory body of a trading company cannot be regarded as an employee within the meaning of that directive and, therefore, cannot benefit from the guarantees provided for by that directive.

Creator: European Court of Justice (ECJ)

Verdict at: 2022-05-05

Case number: C-101/20