

## SUMMARY

# **ECJ 15 September 2022, case C-58/21 (Rechtsanwaltskammer Wien), Social insurance, pension**

## ***FK – Rechtsanwaltskammer Wien Austrian case***

### **Summary**

The conflict rules in Article 13(2) of Regulation (EC) No 883/2004 are not applicable when a person who resides in one Member State where the centre of interests of his or her activities is also situated, whilst pursuing an activity in two other Member States. Furthermore, EU law precludes national legislation which makes the award of an early retirement pension applied for conditional on the waiver by the person concerned of the right to practice as a lawyer, without taking into account, in particular, the Member State in which the activity concerned is pursued.

### **Questions**

Which legislation is applicable under Article 13(2)(b) of Regulation No 883/2004 where the place of residence and the centre of interest of the activities of the person concerned are situated in Switzerland and that person also pursues an activity – which is distributed unevenly – in two other Member States, within the meaning of Article 1(2) of Annex II to the EC-Switzerland Agreement, namely in Germany and Austria?

Must EU law be interpreted as precluding national legislation which makes the award of an early retirement pension applied for conditional on the waiver by the person concerned of the right to practice as a lawyer not only in the territory of the Member State concerned but also abroad?

## Ruling

The conflict rules laid down in Article 13(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 are not applicable to the situation of a person who resides in the Member State in which the centre of interests of his or her activities is also situated, whilst pursuing an activity – which is distributed unevenly – in two other Member States, where it is necessary to determine whether that person has direct rights vis-à-vis the institutions of one of those two other Member States by virtue of contributions paid during a given period.

Articles 45 and 49 TFEU must be interpreted as precluding national legislation which makes the award of an early retirement pension applied for conditional on the waiver by the person concerned of the right to practise as a lawyer, without taking into account, in particular, the Member State in which the activity concerned is pursued.

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

**Verdict at:** 2022-09-15

**Case number:** C-58/21