

SUMMARY

ECJ 16 February 2023, case C-710/21 (IEF Service), Insolvency

IEF Service GmbH – v – HB, Austrian case

Summary

In cross-border situations, where the worker works equally in two Member States, the responsible guarantee institution is the one in the Member State where the employer has its lasting presence.

Questions

Must Article 9(1) of Directive 2008/94 be interpreted as meaning that, in order to determine which Member State's guarantee institution is responsible for meeting employees' outstanding claims, it must be held that an employer in a state of insolvency carries out activities in the territories of at least two Member States, within the meaning of that provision, where the employment contract of the worker in question provides that his or her primary and habitual place of employment is in the territory of the Member State in which the employer has its registered office, but that, during an equal amount of his or her working time, that worker performs his or her duties remotely from another Member State where his or her main place of residence is situated?

Ruling

Article 9(1) 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 must be interpreted as meaning that in order to determine which Member State's guarantee institution is responsible for meeting employees' outstanding claims, it must be considered that an employer in a state of insolvency does not carry out activities in the territories of at least two Member States, within the meaning of that provision, where the employment contract of the worker in question provides that his or her primary and habitual place of

employment is in the territory of the Member State in which the employer has its registered office, but during an equal proportion of his or her working time that worker performs his or her duties remotely from another Member State where his or her main place of residence is situated.

Creator: European Court of Justice (ECJ)

Verdict at: 2023-02-16

Case number: C-710/21