

SUMMARY

# **ECJ 26 March 2026, Case C-357/24, Freistaat Bayern - v- Euroherc osiguranje d.d.**

## ***Freistaat Bayern - v- Euroherc osiguranje d.d. (German case)***

### **Summary**

Articles 1(q)(iv), 3(1)(a) and 85(1) of Regulation No 883/2004 mean that an employer who pays continued remuneration during an employee's temporary incapacity for work after an accident in another Member State can qualify as a "competent institution" and that such payments qualify as "sickness benefits"; however, the employer can only recover those costs from the liable third party or its insurer if the law of the Member State where the accident occurred provides a legal basis (or comparable claim) for such reimbursement.

### **Questions**

Must Article 1(q)(iv) and Article 3(1)(a) of Regulation No 883/2004 be interpreted as meaning that an employer paying sick leave pay during temporary incapacity for work after an accident abroad qualifies as a "competent institution" and that such pay constitutes "sickness benefits"?

Must Article 85(1) of Regulation No 883/2004 be interpreted as meaning that the employer can claim reimbursement of that sick pay from the liable third party or its insurer even if the law of the Member State where the accident occurred does not provide for such a claim?

### **Ruling**

Articles 1(q)(iv) and 3(1)(a) of Regulation No 883/2004 must be interpreted as meaning that an employer obliged under national law to continue paying remuneration during sickness may

qualify as a “competent institution”, and that such continued remuneration constitutes “sickness benefits”, even where the incapacity results from an accident in another Member State that is not a work accident or occupational disease.

Article 85(1) of Regulation No 883/2004 must be interpreted as meaning that the employer may only claim reimbursement from the liable third party or its insurer if, under the law of the Member State where the injury occurred, there exists a legal basis for such a claim (or for comparable benefits); subrogation cannot create rights that the injured person does not have under that law.

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

**Verdict at:** 2026-03-26

**Case number:** ECLI:EU:C:2026:258/CJ357/24