

SUMMARY

Case C-527/16. Free movement, Social insurance

<p>Salzburger Gebietskrankenkasse, Bundesminister für Arbeit, Soziales und Konsumentenschutz – v – Alpenrind GmbH and Others, reference lodged by the Austrian Verwaltungsgerichtshof on 14 October 2017</p>

Does Article 5 of Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, 1 which establishes the binding effect of documents within the meaning of Article 19(2) of Regulation (EC) No 987/2009, also apply in proceedings before a court within the meaning of Article 267 TFEU?

If Question 1 is answered in the affirmative:

Does the aforementioned binding effect also apply where proceedings had previously taken place before the Administrative Commission for the Coordination of Social Security Systems and such proceedings did not result either in agreement or in a withdrawal of the contested documents?

Does the aforementioned binding effect also apply where an ‘A 1’ document is not issued until

after the receiving Member State has formally determined that insurance is compulsory under its legislation? Does the binding effect also apply retroactively in such cases?

In the event that, under certain conditions, the binding effect of documents within the meaning of Article 19(2) of Regulation (EC) No 987/2009 is limited: Does it contravene the prohibition on replacement set forth in Article 12(1) of Regulation (EC) No 883/2004 if the replacement occurs not in the form of a posting by the same employer but instead by another employer? Does it matter whether:

the second employer has its registered office in the same Member State as the first employer, and

the first and the second posting employer share staffing and/or organisational resources?

Creator: European Court of Justice (ECJ)

Verdict at: 2017-10-14

Case number: C-527/16