

Operative part of the judgment

1. European Union law does not preclude a legislative provision of a Member State which permits an administrative authority to prohibit a national of that State from leaving it on the ground that a tax liability of a company of which he is one of the managers has not been settled, subject, however, to the twofold condition that the measure at issue is intended to respond, in certain exceptional circumstances which might arise from, *inter alia*, the nature or amount of the debt, to a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society and that the objective thus pursued does not solely serve economic ends. It is for the national court to determine whether that twofold condition is satisfied.

2. Even if a measure imposing a prohibition on leaving the territory such as that applying to Mr Aladzhov in the main proceedings has been adopted under the conditions laid down in Article 27(1) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, the conditions laid down in Article 27(2) thereof preclude such a measure,

— if it is founded solely on the existence of the tax liability of the company of which he is one of the joint managers, and on the basis of that status alone, without any specific assessment of the personal conduct of the person concerned and with no reference to any threat of any kind which he represents to public policy, and

— if the prohibition on leaving the territory is not appropriate to ensure the achievement of the objective it pursues and goes beyond what is necessary to attain it.

It is for the referring court to determine whether that is the position in the case before it.

⁽¹⁾ OJ C 317, 20.11.2010.

Judgment of the Court (Fourth Chamber) of 17 November 2011 (reference for a preliminary ruling from the Centrale Raad van Beroep (Netherlands)) — J. C. van Ardennen v Raad van bestuur van het Uitvoeringsinstituut werknemersverzekeringen

(Case C-435/10) ⁽¹⁾

(Directive 80/987/EEC — Protection of employees in the event of the insolvency of their employer — Insolvency benefit — Payment subject to registration as a job-seeker)

(2012/C 25/27)

Language of the case: Dutch

Referring court

Centrale Raad van Beroep

Parties to the main proceedings

Applicant: J. C. van Ardennen

Defendant: Raad van bestuur van het Uitvoeringsinstituut werknemersverzekeringen

Re:

Reference for a preliminary ruling — Centrale Raad van Beroep — Interpretation of Articles 4, 5 and 10 of Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer (OJ 1980 L 283, p. 23), as amended by Directive 2002/74/EC (OJ 2002 L 270, p. 10) — Extent of the guarantee offered by the guarantee institution — National legislation obliging employees to register immediately as job-seekers before they apply for payment of outstanding pay claims.

Operative part of the judgment

Articles 3 and 4 of Council Directive 80/987/EEC of 20 October 1980 relating to the protection of employees in the event of the insolvency of their employer, as amended by Directive 2002/74/EC of the European Parliament and of the Council of 23 September 2002 must be interpreted as precluding a national rule which obliges employees to register as job-seekers in the event of the insolvency of their employer, in order to fully assert their right to payment of outstanding wage claims, such as those in issue in the main proceedings.

⁽¹⁾ OJ C 317, 20.11.2010.

Judgment of the Court (Second Chamber) of 10 November 2011 (reference for a preliminary ruling from the Bundesfinanzhof — Germany) — Finanzamt Lüdenscheld v Christel Schriever

(Case C-444/10) ⁽¹⁾

(VAT — Sixth Directive — Article 5(8) — Concept of a ‘transfer of a totality of assets or part thereof’ — Transfer of the stock and fittings concomitant with the conclusion of a contract of lease of the business premises)

(2012/C 25/28)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Finanzamt Lüdenscheld

Defendant: Christel Schriever