

Operative part of the judgment

Article 63 TFEU must be interpreted as precluding rules of a Member State under which, in the context of a system aimed at limiting double taxation, where persons subject to unlimited tax liability pay on foreign income, in the State where that income originates, a tax equivalent to the income tax levied by the said Member State, the offsetting of that foreign tax against the amount of income tax levied in the said Member State is carried out by multiplying the amount of the tax due in respect of taxable income in the same Member State, including foreign income, by the proportion that that foreign income bears to total income, that latter sum not taking into account special expenditure or extraordinary costs such as costs relating to lifestyle or to personal and family circumstances.

(¹) OJ C 211, 16.7.2011.

Judgment of the Court (First Chamber) of 21 February 2013 (request for a preliminary ruling from the Rechtbank van eerste aanleg te Brussel (Belgium)) — RVS Levensverzekeringen NV v Belgische Staat

(Case C-243/11) (¹)

(Direct life assurance — Annual tax on assurance transactions — Directive 2002/83/EC — Articles 1(1)(g) and 50 — Definition of ‘Member State of the commitment’ — Assurance undertaking established in the Netherlands — Policyholder having taken out an assurance contract in the Netherlands and transferred his habitual residence to Belgium after the contract was concluded — Freedom to provide services)

(2013/C 114/12)

Language of the case: Dutch

Referring court

Rechtbank van eerste aanleg te Brussel

Parties to the main proceedings

Appellant: RVS Levensverzekeringen NV

Respondent: Belgische Staat

Re:

Request for a preliminary ruling — Rechtbank van eerste aanleg te Brussel — Interpretation of Article 50 of Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance (OJ 2002 L 345, p. 1) — National rule subjecting insurance transactions to an annual tax when the risk is situated in Belgium, either

because the natural person insured is habitually resident there or because the legal person insured is established there — Assurance undertaking established in the Netherlands, without any presence in Belgium except for one of its policyholders, who moved to Belgium after the contract was concluded — Place of taxation — Article 49 and Article 56 TFEU — Restrictions

Operative part of the judgment

Article 50 of Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance must be interpreted as not precluding a Member State from collecting an indirect tax on life assurance premiums paid by policyholders who are natural persons having their habitual residence in that Member State, when the assurance contracts concerned were taken out in another Member State in which those policyholders had their habitual residence on the date the contracts were taken out.

(¹) OJ C 252, 27.8.2011.

Judgment of the Court (Third Chamber) of 28 February 2013 — Portuguese Republic v European Commission

(Case C-246/11 P) (¹)

(Appeal — European Regional Development Fund (ERDF) — Regulation (EEC) No 2052/88 — Article 13(3) — Regulation (EEC) No 4253/88 — Article 21(1) — Global grant for local development in Portugal — Reduction in financing)

(2013/C 114/13)

Language of the case: Portuguese

Parties

Appellant: Portuguese Republic (represented by: L. Inez Fernandes, S. Rodrigues and A. Gattini, acting as Agents)

Other party to the proceedings: European Commission (represented by: L. Flynn, A. Steiblytė and P. Guerra e Andrade, acting as Agents)

Re:

Appeal against the judgment of the General Court (Eighth Chamber) of 3 March 2011 in Case T-387/07 *Portugal v Commission* by which that court dismissed the application for annulment in part of Commission Decision C(2007) 3772 of 31 July 2007 reducing the final assistance granted by the European Regional Development Fund (ERDF) towards the global grant for local development in Portugal pursuant to Commission Decision C(95) 1769 of 28 July 1995

Operative part of the judgment

The Court:

1. Sets aside the judgment of the General Court of the European Union of 3 March 2011 in Case T-387/07;
2. Annuls Commission Decision C(2007) 3772 of 31 July 2007 reducing the final assistance granted by the European Regional Development Fund (ERDF) towards the global grant for local development in Portugal pursuant to Commission Decision C(95) 1769 of 28 July 1995;
3. Orders the European Commission to pay the costs at first instance and on appeal.

(¹) OJ C 219, 23.7.2011.

Judgment of the Court (First Chamber) of 21 February 2013 (request for a preliminary ruling from the Tribunal Superior de Justicia de Galicia — Spain) — Concepción Salgado González v Instituto Nacional de la Seguridad Social (INSS), Tesorería General de la Seguridad Social (TGSS)

(Case C-282/11) (¹)

(Article 48 TFEU — Social security for migrant workers — Regulation (EEC) Nos 1408/71 and (EC) No 883/2004 — Old-age and survivor's insurance — Special provisions for the application of national legislation relating to old-age pensions — Calculation of benefits)

(2013/C 114/14)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Galicia

Parties to the main proceedings

Applicant: Concepción Salgado González

Defendants: Instituto Nacional de la Seguridad Social (INSS), Tesorería General de la Seguridad Social (TGSS)

Re:

Request for a preliminary ruling — Tribunal Superior de Justicia de Galicia — Interpretation of Article 48 TFEU, of Article 3 of and of Heading D (now letter g), Paragraph 4 of Annex VI to

Council Regulation No 1408/71/EEC of 14 June on the application of social security schemes to employed persons, to self-employed persons and their families moving within the European Union (OJ English Special Edition 1971 (II), p. 416) and of Article 87(5) of and of paragraph 2(a) of Annex XI to Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ 2004 L 166, p. 1) — Insurance relating to old age and death — Special provisions for the application of national legislation relating to old age insurance — Calculation of benefits — National legislation determining the benefit on the basis of an average contribution basis during a reference period of 15 years.

Operative part of the judgment

Article 48 TFEU, Articles 3, 46(2)(a) and 47(1)(a) of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, in the version amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996, and as amended by Regulation (EC) No 629/2006 of the European Parliament and of the Council of 5 April 2006, and Heading H, paragraph 4, of Annex VI to that regulation, must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, under which the theoretical amount of the retirement pension of a self-employed worker, migrant or non-migrant, is invariably calculated on contribution bases paid by that worker over a fixed reference period preceding the payment of his last contribution in that Member State, to which a fixed divisor is applied, when it is impossible for either the duration of that period or the divisor to be adapted so as to take account of the fact that the worker concerned has exercised his right to freedom of movement.

(¹) OJ C 269, 10.9.2011.

Judgment of the Court (First Chamber) of 21 February 2013 (request for a preliminary ruling from the Hof van Cassatie van België — Belgium) — ProRail NV v Xpedys NV, DB Schenker Rail Nederland NV, Nationale Maatschappij der Belgische Spoorwegen NV, FAG Kugelfischer GmbH,

(Case C-332/11) (¹)

(Regulation (EC) No 1206/2001 — Cooperation in the taking of evidence in civil and commercial matters — Direct taking of evidence — Designation of an expert — Task carried out partly in the Member State of the referring court and partly in another Member State)

(2013/C 114/15)

Language of the case: Dutch

Referring court

Hof van Cassatie van België