

The EFTA Surveillance Authority's work in the field of social security coordination

Oslo, 11 September 2025

Background

- Regulation 883/2004 + implementing regulations
- *Acquis* relevant beyond the Regulations
 - Free movement of workers Regulation 492/2011 - social advantages
 - Patients' Rights Directive (2011/24)
 - Directives on supplementary pensions (2014/50)
 - Fundamental freedoms
 - Fundamental Rights

Substance of cases

- Complaint driven sector
 - Complaints and enquiries
 - SOLVIT
- Scope - application beyond EEA
- Discrimination - who is the comparator?
- Substantive assessment – fulfil entitlement conditions?
- Aggregation of periods of insurance/residence
 - Aggregation of the periods from same branch
 - “Residence” with different legal consequences
- Assimilation of facts

Assimilation of facts 1/2

- New provision in Art 5 R 883/2004 – substantial change to R 1408/71 – horizontal application
- Related to principle of non-discrimination - justification – proportionality
 - CJEU: “Art 5 enshrines the case-law principle of equal treatment of benefits, income and facts” (C-398/18 and C-428/18 *Bocero Torrico und Bode*)
- Provides solution to unjustified discrimination (C-523/13 *Larcher* and C-453/14 *Knauer*)

Assimilation of facts 2/2

- “Unless otherwise provided for by this Regulation [...]”
 - Specifications (e.g. Art 21 – E-5/21 *Einarsdottir*)
 - Exceptions (e.g. Arts 53-56)
- Recitals 9-12 of R 883/2004 important for the correct application of Art 5
- Analytical report 2016 - FreSsco network

Coordination of social rights with int. org. 1/2

- Important case law in past 20 years – all principles of coordination covered
- Important for staff in EFTA: return to home country without “holes”: EEA States have qualification periods for accessing certain benefits – not coordinated outside R 883/2004
- Legal basis
 - primarily FMoW; also applicable for other int. org. outside the EU/EEA setting, and
 - principle of loyal cooperation – exists also in Art 3 EEA
 - principle of non-discrimination.

Coordination of social rights with int. org. 2/2

- Family benefits: C-137/04 *Rockler*, C-185/04 *Öberg*, C-651/16 *DW*;
- Pensions:
 - C-293/03 *My*, C-286/09 + C-287/09, *Ricci und Pisaneschi*, C-408/14 *Wojciechowski*, C-515/14 *Commission/Cyprus*, C-466/15 *Adrien*, C-179/18 *Rohart*;
 - C-404/21 *INPS (Gardella)*, C-903/19 *Ministre de la Transition écologique*, [E-30/24 *ESA / Iceland* (pending)]
- Unemployment: C-647/13 *Melchior*;
- Health care: C-411/98 *Ferlini*, T-737/17 *Wattiau*.

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