

MoveS seminar in Norway

*Error and fraud in the field of social
security coordination and free
movement in the EEA area*

18 March 2025

Oslo, Røde Kors (Red Cross) Konferansesenter

Hausmannsgate 5, 0186

Language: English

Welcome & Introductory words

Martin Andresen

Ambitions for the seminar

- Shed light on the subject, (mainly) from a legal perspective
 - Important side-question: Crime and fraud was cross-border long before free movement for persons was invented. Could we cooperate better to combat it?
- Share important experiences
 - Valuable lessons for future cooperation and work

A social science perspective: organized vs. opportunistic fraud



Organized

Opportunistic



Have a cigar? The historian's perspective

Al Capone in many ways personifies the term “organized crime”. He was never convicted of the 100+ murders he was (supposedly) responsible for – but he finally received a prison sentence of 11 years for tax fraud



MoveS

project presentation

MoveS

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EU-wide network of *independent* legal experts in the fields of

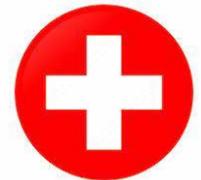


FREE MOVEMENT OF WORKERS

SOCIAL SECURITY COORDINATION

POSTING

EU-27 countries are covered, together with Iceland, Liechtenstein, Norway, Switzerland and United Kingdom.



Two objectives



1

Provide legal expertise in the areas of
*Free Movement of Workers,
Social Security Coordination & Posting*

Through

- *Legal Reports*
- *Bimonthly Monitoring Reports*
- *Ad hoc requests*
- *Comparative assessments*

2

Disseminate expertise and increase
experts' and practitioners' knowledge

by means of

- *8 national seminars*
- *3 Webinars*
- *4 Training for EC staff*
- *Information tools & communication*

A glimpse on Legal Reports published since 2018



#	Title	Date
1.	<i>Consequences and possible solutions in case of lump sum payment of pensions, reimbursement of contributions and waiver of pensions in cross-border situations</i>	2018
2.	<i>Social security coordination and non-standard forms of employment and self-employment: Interrelations, challenges and prospects</i>	2018
3.	<i>The application of free movement of workers and social security coordination rules by national courts'</i>	2019
4.	<i>The application of the social security coordination rules on modern forms of family'</i>	2020
5.	<i>The legal status and rights of the family members of EU mobile workers'</i>	2020
6.	<i>Social security and tax law in cross-border cases'</i>	2022
7.	<i>'The relationship between the Regulations on the coordination of social security systems and the Directive on the application of patients' rights in cross-border healthcare'</i>	2023
8.	<i>CJEU and EFTA Court decisions in a comparative overview</i>	2024

Seminars for 2025



#	Country (City)	National expert hosting the seminar	Date
1.	Finland (Helsinki)	Anna-Kaisa Tuovinem Matias Kainu	31.01.2025
2.	France (Paris)	Jean Philippe Lhernould Sophie Robin Olivier	07.02.2025
3.	Norway (Oslo)	Martin Andresen	18.03.2025
4.	Lithuania (Vilnius)	Mantas Jautakis Vida Petrylaite	08.05.2025
5.	Slovenia (Ljubljana)	Grega Strban	23.05.2025
6.	Austria (Salzbourg)	Elias Felten	11.06.2025
7.	Spain (Madrid)	Dolores Carrascosa Bermejo	17.10.2025
8.	Portugal (Coimbra)	Mariana Geraldo, Francisco Pereira Coutinho, Emellin de Oliveira Chiodini	07.11.2025

Webinars for 2025



Date	Topic	Format
April 2025	Recognition of Professional qualifications.	Online
June 2025	The Withdrawal Agreement and the EU-UK Trade and Cooperation Agreement: interests at stake.	Online
October 2025	TBC	Online

You can register to the webinars by writing an email to moves.seminars@eftheia.eu



Deloitte.



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You can keep up with MoveS network activities through

- MoveS [webpage](#) (EUROPA)
- MoveS [LinkedIn](#) group

In these channels all the (public) MoveS activities are advertised. You can find there:

- **Legal reports** authored by our experts
- **Invitations** to join on location seminars and online webinars
- **The link to the [A-Z tool](#)** on Social Security Coordination
- **Access to the [SSC Regulations Database](#)**

Thank you for your attention

Contact us at:

MoveS@eftheia.eu

Recent developments in the area of EU social security coordination

Els Vertongen

**European Commission, DG EMPL
Employment, Social Affairs and Inclusion
Unit E2 – Social Security Coordination**

Political guidelines for the next Commission 2024-2029

Presented by EC President Ursula von der Leyen on 18 July 2024

Supporting
people,
strengthening our
societies and our
social model

prosperity and
competitiveness

Protecting our
democracy &
values

preparing our
Union for the
future

food security,
water and nature

European
Defense and
Security

A global Europe:
Leveraging our
power and
partnership



Commissioners (2024-2029)



Roxana Mînzatu
 Executive Vice-President for
 Social Rights and Skills,
 Social Jobs and
 Preparedness



Mission letter to Roxana Mînzatu

People, Skills and Preparedness

The European Pillar of Social
Rights

A Union of Skills

Clear mandate

“... to explore ways to further facilitate labour mobility, whilst ensuring that rules are properly enforced with the support of a strong and empowered European Labour Authority. [...]”

... work on the modernisation, simplification and digitalisation of social security coordination.”

Revision of social security coordination Regulations



Still under negotiations

Latest developments in Administrative Commission

- As in previous years, the Administrative Commission provided social security authorities institutions with the tools to facilitate their understanding and application of Regulations
- This year, discussions in the AC meetings focussed for instance on
 - Mini-jobs and the priority rules for FB (Article 68)
 - Access to health care of non-active EU citizens (case C-535/19)
 - Discussions on the interpretation of the case C-116/23
- On-going discussions in the AHG for the revision/update of the Practical Guide on the determination of the applicable legislation

Decisions adopted by Administrative Commission since November 2023

- **Decision E8** concerning the establishment of a change management procedure applying to details of the bodies defined in Article 1 of Regulation (EC) No 883/2004 of the European Parliament and of the Council which are listed in the electronic directory which is an inherent part of EESSI
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32024D06842>
- **Decision H15** concerning the methods of operation and the composition of the Technical Commission for Data Processing of the Administrative Commission for the Coordination of Social Security Systems
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024D06845&qid=1732630613122>
- **Decision S12** concerning the reimbursement of healthcare in connection to patients' transfer to another Member State in case of mass casualties following disasters.
→ Not yet published

Recent rulings of the CJEU (1)



Applicable legislation

- **Judgment of 26.09.2024, case C-329/23:** self-employed person working simultaneously in more than 2 States, including a EU Member State, a State of the EEA and in Switzerland
- **Judgement of 23.01.2025, case C-421/23:** Regulation 883/2004 applies to persons posted to another MS, including in cases where the PDA1 issued appears to be false. The dialogue and conciliation procedure referred to in Article 76 BR constitutes a compulsory precondition for a finding, by a court of the hosting Member State, of such fraud

Recent rulings of the CJEU (2)



Family benefits

- **Judgment of 25.04.2024, C-36/23:** application of Article 68 BR and Article 60 IR in case of right to family benefits more than 1 Member State
- **Judgment of 16.01.2024, C-277/23:** a tax allowance for dependent children following higher education is not a family benefit in the meaning of Article 1(z) BR, therefore Article 67 BR does not apply.

Recent rulings of the CJEU (3)

Sickness benefits



Judgment of 11.04.2024, case C-116/23: care leave allowance in the Member State of work – equal treatment

International relations

- **Protocol on Social Security Coordination to the EU-UK Trade and Cooperation Agreement**

→ SC Decision No 1/2024 regarding the amendment of the annexes of the Protocol
https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202403002

→ SC Recommendation No 1/2024 regarding the interpretation of Article SSC.11 on the legislation applicable to detached workers and self-employed persons working outside the competent state.
https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202401754

- **Free movement of Workers Agreement between the EU and Switzerland**

→ Negotiations finalised on 20 December 2024

→ Dynamic alignment: Switzerland will apply current and future EU law in the field of social security coordination

→ Next steps: (1) Council must authorise the signing of the agreement by the Commission (2) consent of the EP (3) Council decide on the conclusion of the agreement and the entry into force

Digitalisation in social security coordination

- September 2023



Communication on digitalisation in social security coordination

Facilitating free movement in the Single Market

EESSI

- IT system that aims to facilitate the cross-border exchange of information to implement the Social Security Coordination regulations.
- Decentralised messaging system that allows **competent institutions** to exchange structure electronic documents (**SEDs**) between national institutions
- The communication is orchestrated by following predefined Business Use Cases (**BUCs**).
- Full implementation of the 99 BUCs estimated for the end of 2025 (currently 98% implemented).



EESSI Q4 2024 factsheet – data as of January 6th 2025

European Social Security Pass (ESSPASS)

- Initiative to explore a digital solution for verifying people's social security entitlement documents in other EU countries (i.e. portable documents, including the EHIC).
- Will build on relevant EU initiatives (Single Digital Gateway Regulation and European Digital Identity Framework).
- Two consortia piloting verification of PDA1 and EHIC.

European Social Security Pass (ESSPASS)



Thank you



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Discussion

**Coffee break
10:00-10:30**

Cooperation to combat fraud and error: Opportunities, limitations and tools

Ole Johan Heir

**Director of the NIA special unit for
combatting fraud**



Cooperation to combat fraud and error: Opportunities, limitations and tools

MoveS seminar
Oslo, Norway

18.03.2025 // Ole Johan Heir, Nav Control



Norwegian Labour and Welfare Administration (Nav)



Nav Control

Key figures

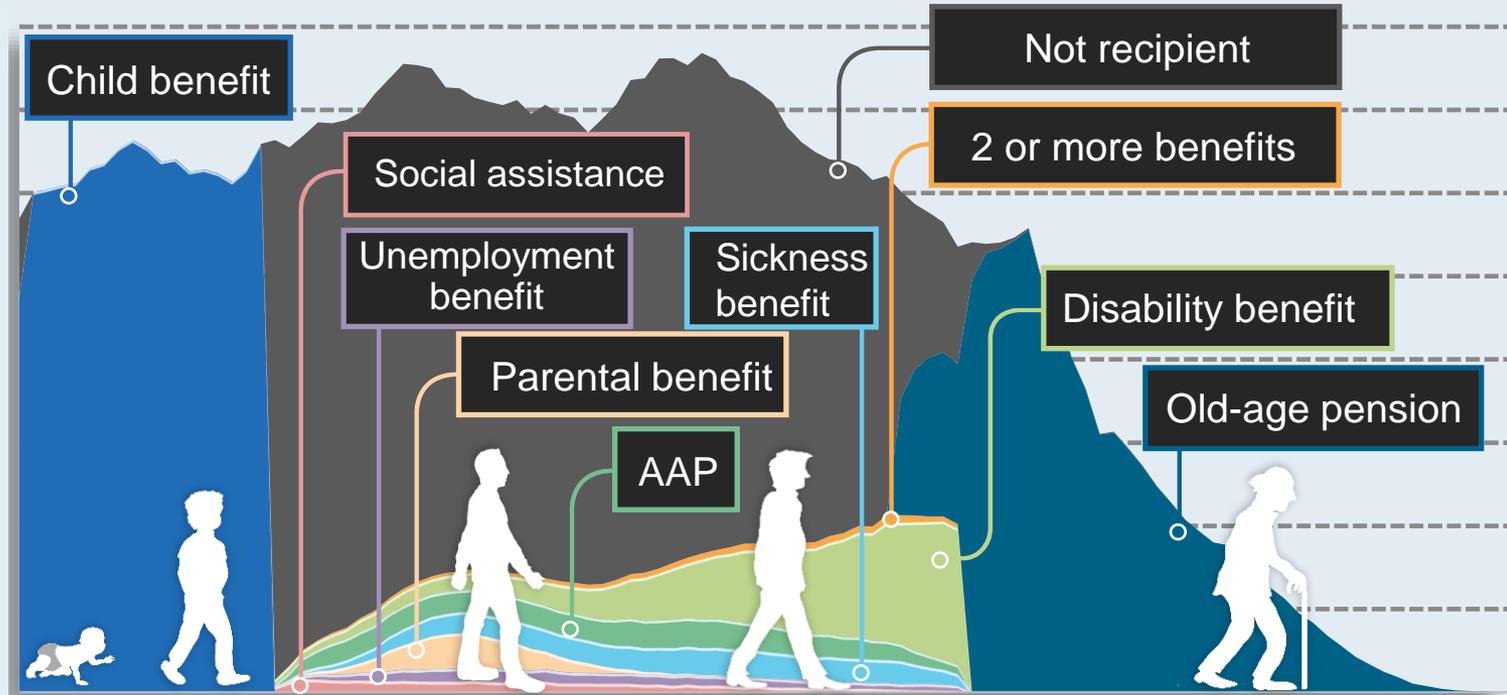
1/3 of Norway's national budget

Services to 2.8 million people

Over 3 million benefit cases

60 different types of support and benefits

Nav is there from the cradle to the grave



```
graph LR; A[Nav Control mandate] --> B[Prevent and uncover improper payments and fraud.]; A --> C[Achieving objectives requires collection, processing, and sharing of information—both internally within Nav and with authorities nationally and internationally.];
```

Nav Control mandate

Prevent and uncover improper payments and fraud.

Achieving objectives requires collection, processing, and sharing of information—both internally within Nav and with authorities nationally and internationally.

Nav Controls four approaches to detect benefits/social security fraud

- **Ordinary case processing:** Post-checks and reviews conducted during the processing of applications for benefits.
- **Data analysis:** Cross-checking information in internal registers against external sources, such as data from the Tax Administration.
- **Collaboration with other agencies:** Partnering with entities to combat labour-related crime.
- **Tips from the public**

Detection, post-checks, and sanctions aim to ensure trustworthiness and act as both a general and specific deterrent to prevent fraud.

National collaboration

A formalized collaboration to combat labour market crime, involving:



Arbeidstilsynet



Skatteetaten

Other key partners:

- Directorate of Immigration (UDI)
- Public/private pension funds (SPK, KLP, Finance Norway)
- The Norwegian Public Roads Administration
- The Norwegian Food Safety Authority
- The Norwegian Board of Health Supervision
- Norwegian Customs
- The Brønnøysund Register Centre
- Fair Play and other private organisations
- The Confederation of Norwegian Enterprise (NHO)
- Trade unions

International collaboration

Guiding principle:

No one should receive dual international social security coverage/benefits for the same matter or simultaneously have social security coverage/benefits in one country while unlawfully receiving coverage in another.

Collaborative forums:

- European Union (EU)/European Economic Area (EEA): Steering Committee of the Platform Fraud & Error, NCP
- European Labour Authority (ELA)
- Nordic Control Group
- Bilateral/plurilateral agreements
 - The Lithuania project
 - Countries with social security agreements

- **Common regulations and interpretations within the EU/EEA.**
- **EESSI:** A technically robust, secure, and modern platform.
 - NAV Control uses it for individual cases.
 - **Swedish-Norwegian limited pilot:** Several potential major cases of improper payments uncovered (e.g., individuals working in Norway while receiving unemployment benefits in Sweden).
- **NCP Platform / EU Platform Fraud and Error / European Labour Authority (ELA):**
 - Surveys and mappings, annual congress.
 - ELA: Strengthening social security coordination, including benefit control. Norway is in an initial phase.
- **Physical and digital meetings** for relationship- and knowledge-building.
 - **Nordic collaboration:** Annual congress and ongoing collaborative meetings. Includes bilateral projects.
- **Analysis and Threat Assessments:**

Tools

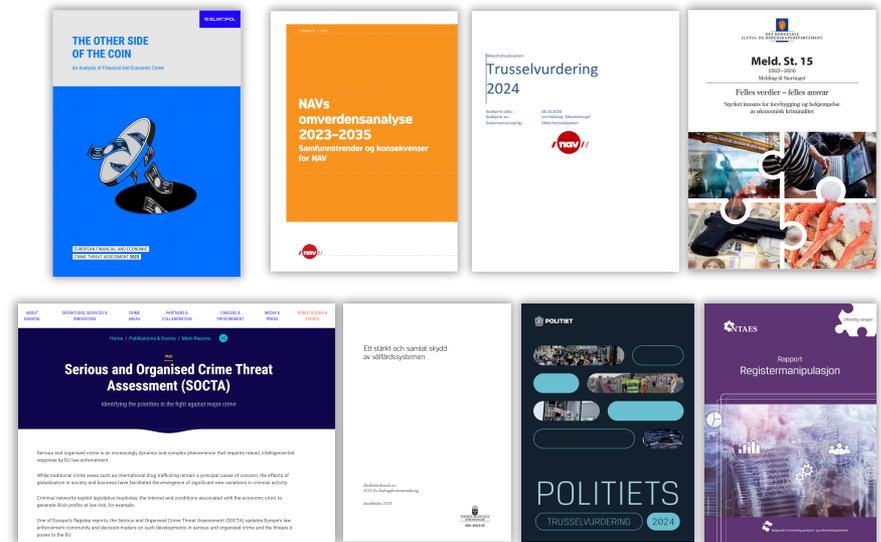
Opportunities

Limitations

Recommendations



Common message:
Organized digital
fraud targeting the
welfare state poses
a very high risk



Navs Threat Assessments 2024

HIGH



Digital threats

VERY HIGH



Fraud

MODERATE



Inside threats

HIGH



Violence,
threats and
harassment

- Operational collaboration
- Information gathering and exchange
- Modern digital world
- International collaboration opportunities

- National and international legal frameworks
 - Differing interpretations of international regulations
 - "Aged" legislation
 - EU regulations does not sufficiently address international control cooperation and cross-border crime
 - Bilateral agreements recommended

- Secure, digital, cross-national platforms
 - EESSI:
 - Limited overview of which authorities are responsible for what in different countries.
 - Requests sometimes "disappear"
 - The SED system is not designed to handle inquiries or responses for multiple individuals simultaneously, which complicates control cases.

What happens when organized international crime systematically uses AI on a large scale to target social security authorities?
How resilient are we?

Develop a common, overarching analysis and threat assessment framework through EU platforms/ELA (Frontex-EUROPOL-model?)

Modernize the legal framework

Align EESSI with the needs of control authorities

Discussion

Vulnerable Access of Union citizens to health and social benefits under EU free movement law

Prof. dr. Ferdinand Wollenschläger
MoveS Visiting Expert

Outline

1. Background: The EU worker's comprehensive entitlement to social solidarity in the host Member State
2. Social and health benefits for economically inactive EU citizens
3. The situation of jobseekers

1. Background: The EU worker's comprehensive entitlement to social solidarity in the host Member State
 - a) Far-reaching position of workers in free movement regime
 - Residence right and equal access to national social systems for migrant workers
 - Comprehensive entitlement to access to social benefits and virtually unconditional solidarity
 - Residence requirement (minimum period of residence) is not justifiable

- Financial interests of the host Member State are no justification for putting foreign nationals at a disadvantage
- Justification: Sufficient integration of economically active persons contributing to productivity and tax revenue in the host Member State (cf. e.g. Aubriet)
- Moreover: Free movement not a mass phenomenon (although controversies: Eastern enlargement, child benefits)

b) Fragility of the market logic

- Due to a broad interpretation of the concept of worker
 - Performing “genuine and effective work” required
 - BUT: Requirements relative to productivity, remuneration and working hours low

Inclusion of employees working 12h/week, relying on in-work benefits topping up wage to minimum level of existence or pursuing university education)

- Retention of worker status after economic activity has ended/unemployment [Art. 7(3) Dir. 2004/38; Alimanovic]
 - Retention for at least six months if employment < 1 year (no additional proportionality test required (para. 58 ff.; different view of AG)
 - Retention if employment > 1 year (cf. b); possibility of temporal restrictions excluded by Tarola, para. 27, 44)
 - Requirement of re-integration into the labour market within reasonable time (Prefeta, para. 37 ff.)

- Cases of retention not conclusive (Saint Prix, para. 27 ff.: parental leave)

2. Position of economically inactive persons

- Maastricht (1993): Introduction of free movement rights for all Union citizens, even for economically inactive persons, into EU-Treaties
- (P) Risk of economically motivated migration
- Therefore: Economic residence conditions in secondary law
 - Sufficient means of subsistence
 - Comprehensive health insurance cover

- CJEU: Relativisation by applying the principle of proportionality to residence conditions
- Immaterial:
 - Temporary reliance of a student on social assistance (Grzelczyk)
 - Health insurance which does not cover all risks (Baumbast)
- Despite all criticisms from the Member States: Codification and extension in the Free Movement Directive 2004/38/EC

a) Residence: Three-stage-model of Directive 2004/38/EC

- Up to 3 months: No economic conditions, but expulsion if unreasonable burden on the social assistance system of the host Member State [Art. 6(1), 14 Dir. 2004/38]
- Beyond this: Economic conditions, but
 - only “not to become a burden on the social assistance system of the host Member State” &
 - no automatic expulsion in case of reliance on social assistance [Art. 7(1)(b) and (c), Art. 14(3) Dir. 2004/38]

- Recital 16 Dir. 2004/38: Unreasonable burden to be assessed in view of: Temporary difficulties? Duration of residence? Personal circumstances? Social assistance sums provided?
- New case-law on requirement of comprehensive health insurance & tax-funded public sickness insurance system
 - Requirement fulfilled if “a Union citizen is affiliated to such a public sickness insurance system in the host Member State” (C-247/20, para. 69)
 - Coordination: competent MS must grant access to public sickness insurance system, but not free of charge (C-535/19)

- Right of permanent residence

Acquired after five years of legal residence; unconditional
(Art. 16 f. Dir. 2004/38)

b) Access to social benefits (claim to equal treatment)

- CJEU: (Limited) access of economically inactive persons to social benefits (Sala, Grzelczyk, Bidar)
- Codified in Art. 24 Dir. 2004/38
- Requirement: Residence right
- Unconditional right of residence for stays up to three months,
BUT: no claim to social assistance [Art. 24(2) Dir. 2004/38], confirmed in García-Nieto (in line with primary law; no individual assessment required)

- Unconditional right of residence and claim to social assistance after acquisition of right of permanent residence (five years)
- In between: to be considered on a case-by-case basis (unreasonable burden test)

- Confirmed in Brey (19 September 2013)
 - Social benefit intended to augment a retirement pension for persons not having sufficient means refused to Mr. Brey (German national residing in Austria)
 - ECJ: entitlement “to receive that benefit could be an indication that that national does not have sufficient resources to avoid becoming an unreasonable burden on the social assistance system of the host Member State”
 - But: “overall assessment of the specific burden which granting that benefit would place on the national social assistance system as a whole, by reference to the personal circumstances characterising the individual situation of the person concerned” required

- Deviation in Dano (14 November 2014)?
 - No right to residence & thus no equal access to social benefits if economic residence criteria are not fulfilled; no application of unreasonable burden test
 - totally justifiable in view of the facts (migration solely to gain access to social benefits; no employment intended)

- But: unreasonable burden test required by
 - Dir. 2004/38 [Art. 7(1)(b), Art. 14(3)] and
 - EU primary law [proportionality requirement; confirmed by Alimanovic, para. 46, Rendón Marín, para. 45 f. & C-247/20, para. 69: “host Member State may, **subject to compliance with the principle of proportionality**, make affiliation to its public sickness insurance system of an economically inactive Union citizen, residing in its territory on the basis of Article 7(1)(b) of Directive 2004/38, subject to conditions intended to ensure that that citizen does not become an unreasonable burden on the public finances of that Member State”

- Ambivalent approach in CG (15 July 2021)
 - Background: Croatian/Dutch national in UK, not seeking work, moved with partner to UK, “mother of two young children, with no resources to provide for her own and her children’s needs, who is isolated on account of having fled a violent partner.” (para. 92)
 - Again, no right to residence & thus no equal access to social benefits under EU Free Movement Directive
 - But: acknowledgment of a claim to social assistance based on EU fundamental rights (Art. 1, 7, 24 (2) CFR) despite not fulfilling economic residence criteria

3. Position of jobseekers

- (P) Janus-faced position: potential market participants
- Thus: Enjoy an unconditional residence right (see Art. 14(4)(b) Dir. 2004/38)
- ... but no equal access to social benefits (see Art. 24(2) Dir. 2004/38)
- (P) Consequences of CG: exclusion in line with CFR?

4. Conclusions

- Ambivalent legal framework with regard to social and health benefits for economically inactive EU citizens (relativized residence criteria; proportionality test; consequences of Dano & CG)
- Unlike market actors, economically inactive persons only enjoy a limited claim to social solidarity in the host MS
- Gap to be bridged by a dynamic interpretation of EU citizenship to restore “primaryness of Union citizenship rights [that] has exploded” (SHUIBHNE)?

- However: Distinction reflects clear decisions by EU legislator, moreover provided for by EU primary law

General right to free movement “subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect.” [Art. 21 (1) TFEU]

- Justification: preventing economically inactive persons from becoming “an unreasonable burden on the social assistance system of the host Member State” (recital 10 Dir. 2004/38)
- Limits inherent in current state of EU law must be respected

- Moreover: despite consolidation, progressive tendencies remain visible (CG; Familienkasse Bremen-Niedersachsen; Jobcenter Krefeld)

THANK YOU
FOR YOUR ATTENTION!

QUESTIONS & SUGGESTIONS:

ferdinand.wollenschlaeger@jura.uni-
augsburg.de

Discussion

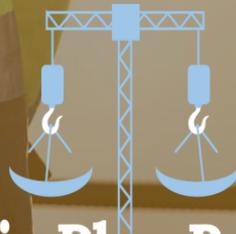
Lunch break
12:00-13:00

Fair Play in the construction sector Lessons from an NGO working for fair competition in the construction sector in Norway

Lars Chr. Mamen
Manager Fair Play Bygg

**Lessons from Fair Play Bygg:
Preventing work-related crime in the
Norwegian construction industry
March 18, 2025**

lars.mamen@fairplaybyggoslo.no



Fair Play Bygg
OSLO OG OMEGN

What is Fair Play Bygg?

Fair Play Bygg works to:



reveal,



document,



and prevent

work-related crime in the
construction industry



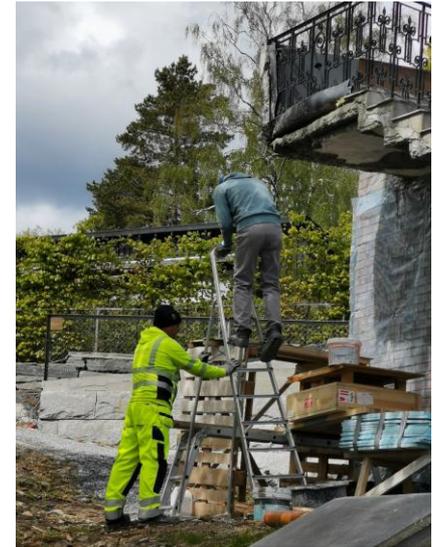
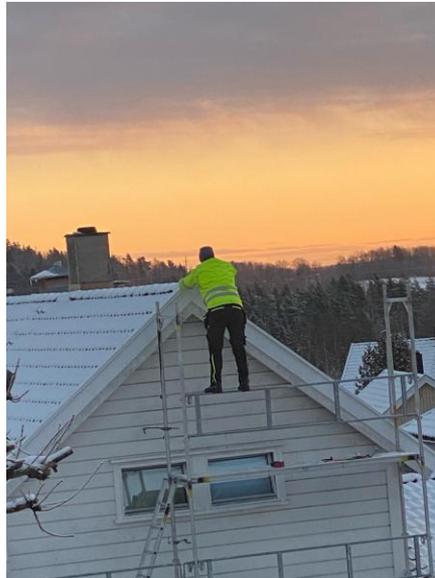
What is work-related crime?

1. Actions that violate Norwegian labor law
2. Has implications for taxes and social security
3. Often tied to organized crime
4. Profit-driven
5. Exploits workers
6. Distorts competition
7. Undermines the societal structure



Effects of work-related crime

1. Individual level
2. Industry level
3. Democratic level



2024 in review

- 55 cases of wage theft, but present in 35-40% of all cases
- 69 cases of (credit) fraud, often in combination with straw person or ID-theft

Sakstype	Antall saker	Prosent
Skatt- og avgiftsunndragelse	23	8 %
Sosial dumping	13	4 %
Konkurskriminalitet	10	3 %
Fiktiv fakturering	4	1 %
Hvitvasking	7	2 %
Menneskehandel	1	0 %
Stråmenn	5	2 %
Utroskap	1	0 %
Underslag	1	0 %
ID-misbruk	5	2 %
Trygdebedrageri	5	2 %
Multikriminalitet	19	6 %
Oppsøkende svindlere	9	3 %
Lønnstyveri	55	18 %
Farlig arbeid	18	6 %
Vold/trusler	2	1 %
Grov utnyttelse	21	7 %
Ulovlig innleie	3	1 %
Narkotika smugling og omsetning	3	1 %
Ikke godkjent elektroinstallatør	4	1 %
Bedrageri/misbruk av kreditt	69	23 %
Etterretning fremmed makt	2	1 %
Kamouflering av kriminalitet	16	5 %
Terrorfinansiering	1	0 %
Offentlig ansatt	2	1 %
Feil kvalitet	1	0 %
Sum	300	100 %



Wage theft

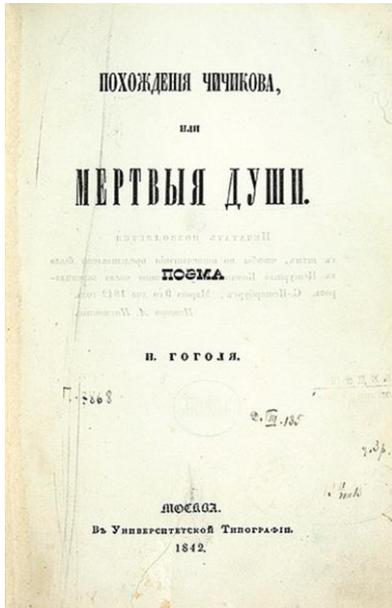


Fraud/
credit fraud

Dead Souls

Nikolai Gogol

1842



«Ghost employees»

- Fictive employees
- Fictive wages
- Advance tax
- Credit cards
- Social security fraud
- Housing allowance

Case 1: Reporting fictive wages on stolen IDs

“Magnhild (71), ill with cancer, exploited by criminals”
– NRK, November 30th, 2024

Kreftsyke Magnhild (71) utnyttet av kriminelle

Kriminelle har rapportert inn fiktiv lønn til skattevesenet på personer de har stjålet identiteten til. Blant dem er 71 år gamle Magnhild Rokoengen.



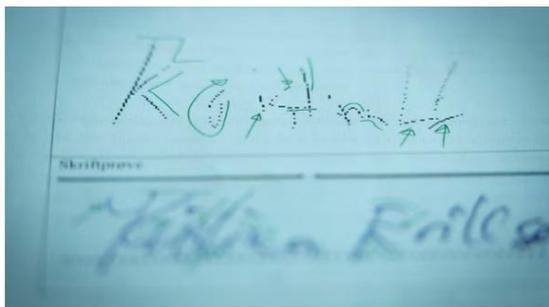
Magnhild Rokoengen (71) er fortvilt over svindelen hun er utsatt for.
FOTO: TORMOD STRAND

[Tormod Strand](#)
Journalist

[Øyvind Bye Skille](#)
Journalist

Publisert 30. nov. 2024 kl. 08:00
Oppdatert 30. nov. 2024 kl. 18:52

Case 2: Stolen company



NRK har brukt en skriftgranser, for å sammenligne underskriften til Kristina Eriksen, med underskriften i den falske protokollen fra generalforsamling. Skriftgranskeren sier det tyder på at disse to underskriftene ikke kan tilhøre samme person.

FOTO: FRODE FJERDINGSTAD / NRK



NRK møter mannen, som er redd og frustrert. Han vil være anonym.

FOTO: MOHAMMED ALAYOUBI / NRK



Dette var besøksadressen i sommer til firmaet der mannen fra Midtøsten ble innsatt som styreleder i selskapet til Kristina Eriksen. Det er også besøksadressen til et firma der 33-åringen var styreleder i fjor. Men på stedet er det ingen som kjenner noe til de to firmaene, eller navnene.

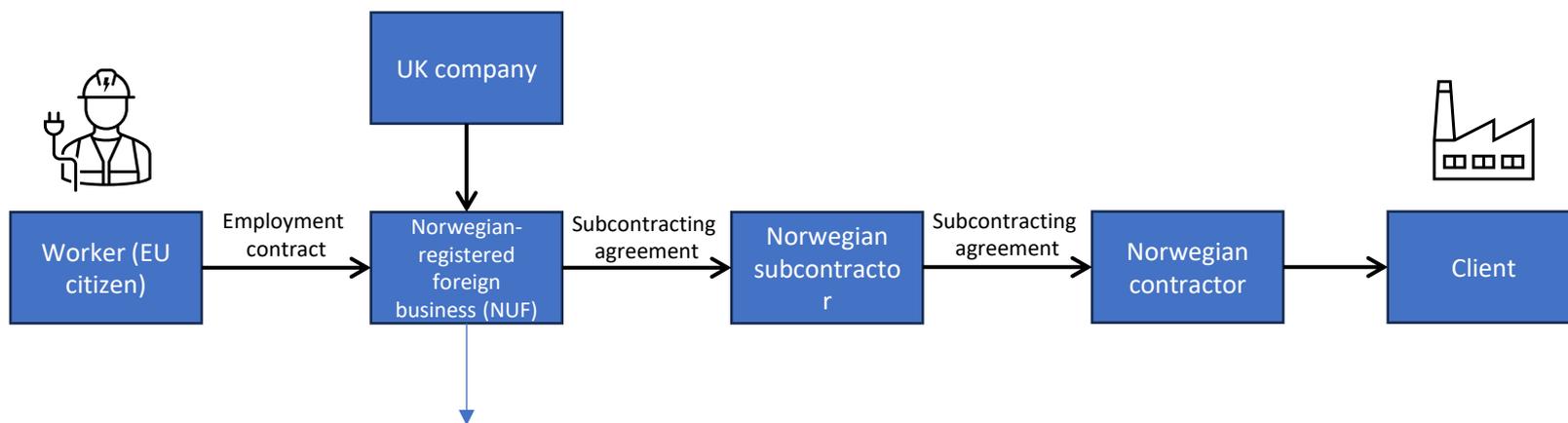
FOTO: TORMOD STRAND / NRK

Top left: fake signature used to take possession of company

Bottom left: man with stolen ID

Right: The registered address of firms tied to fraud cases

Case 3: Work accidents: Who pays?



- No occupational injury insurance (yrkesskedeforsikring)
- Workers not registered in the **Aa-register** (State Register of Employers and Employees)
- Instead, workers registered in the **OAR-register** (Assignment and Employee Register)
 - So: HELFO deems that the worker does not have an employment relationship in Norway, and therefore receives no social insurance or free health care

SUBMIT A TIP TO US AT
FAIRPLAYBYGGOSLO.NO



Discussion

Digitalisation, eID and European Digital Identity Wallets: A gateway for fraud and discrimination?

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SODI

Societal Security and Digital Identities

Duration: 01.06.2021–31.12.2025

In this project, we will study how law and technology can work together to detect and reduce vulnerabilities linked to the use and misuse of eID systems.



Illustration: Colourbox.com

ID - juristen

The ID Lawyer provides free legal aid and guidance to victims of eID fraud or to persons having difficulties accessing eID in Norway.

The project is closing down and do not assist in new cases. If you are in need of legal aid you can contact our partners. You can find contact information under "contact us" or through the links at the bottom of this page.

Contact us



What we can do for you

We offer free legal aid, including guidance and advice for victims of eID fraud in Norway. Contact us even if you are not sure whether you are a victim of eID fraud.

Kreftsyke Magnhild (71) utnyttet av kriminelle

Kriminelle har rapportert inn fiktiv lønn til skattevesenet på personer de har stjålet identiteten til. Blant dem er 71 år gamle Magnhild Rokoengen.



Magnhild Rokoengen (71) er fortvilt over svindelen hun er utsatt for.

FOTO: TORMOD STRAND

Jeg har BankID – altså er jeg

Min sønn Bendik er ifølge digitaliseringens avtaler utestengt fra det meste som kreves for å fungere i samfunnet.



Nesten-kategorien er min sønn og alle vennene hans. Alle som ikke mestrer apper, koder, brikker og passord. Folk med utviklingshemming, demens eller bare høy alder, skriver Nina Skauge – her avbildet med sønnen. (Foto: Privat)

Alohomora



The principle of ‘sole control’

- eIDAS 2.0 article 5a (4)
 - the EDIW shall enable the user to “securely request, obtain, select, combine, store, delete, share and present, under the **sole control of the user**, person identification data”.
- eIDAS 1.0 article 26
 - An advanced electronic signature should be ‘created using electronic signature creation data that the signatory can, with a high level of confidence, use under his **sole control**’

52 Nav-brukarar har blitt svindla for om lag 1,3 millionar kroner

Trygd og pensjon for om lag 1,3 millionar kroner har hamna på kriminelle bankkontoar, trur Nav. No etterforskar politiet identitetstjuveri, og éin person i 20-åra er sikta i saka.



[Hedda Kurseth](#)

Journalist

[Adrian Nyhammer Olsen](#)

Journalist

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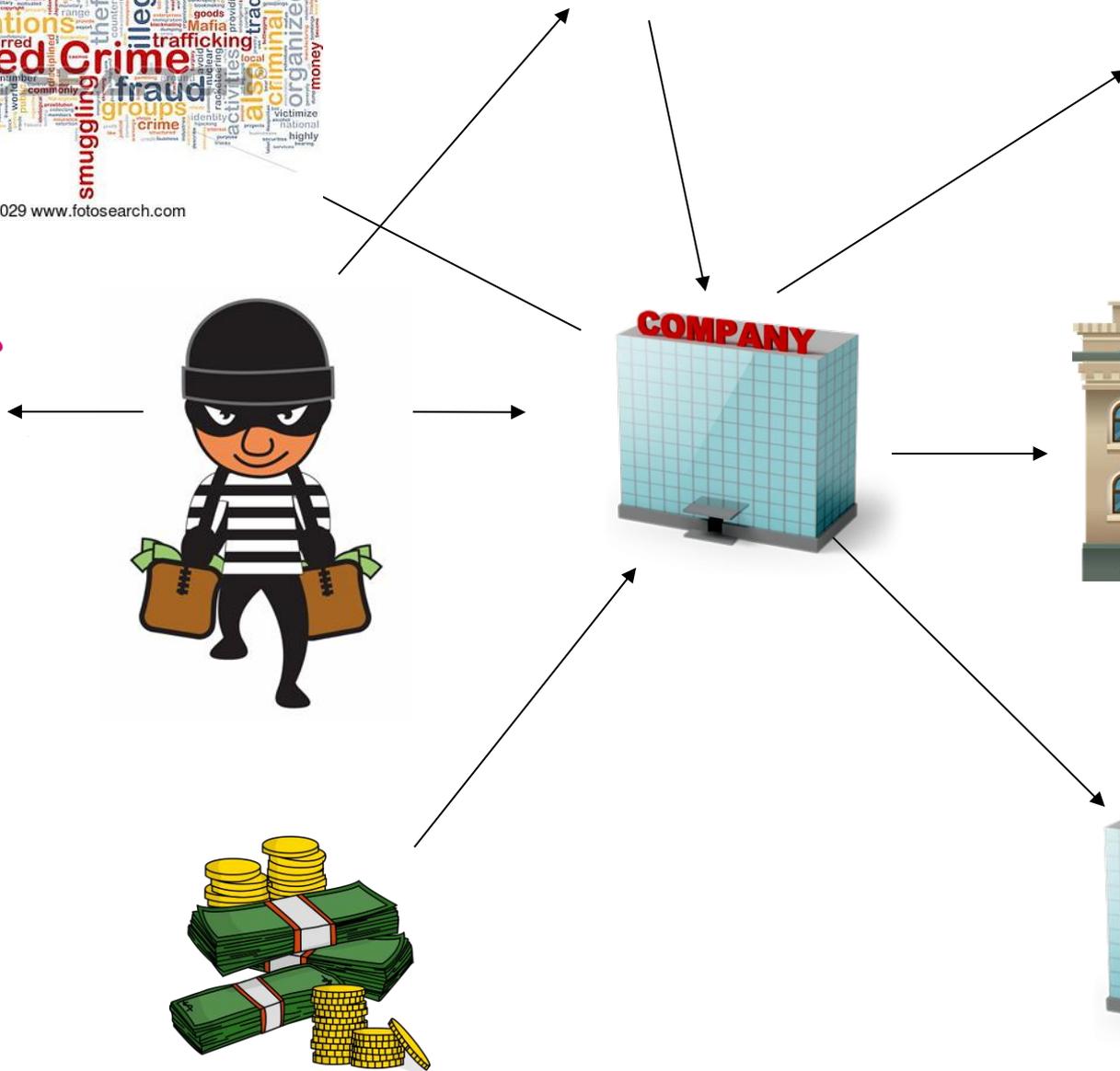
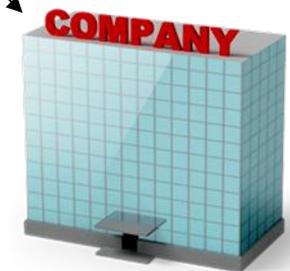
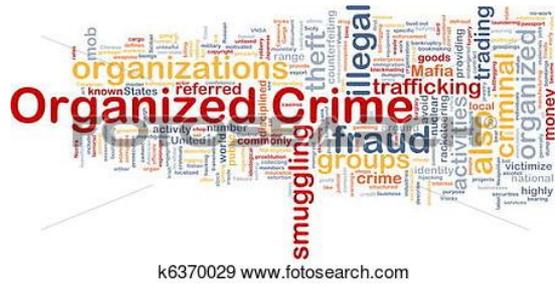
Oppdatert 18. des. 2023 kl. 13:00



Artikkelen er mer enn ett år gammel.

SVINDEL: Nav-brukarar er utsette for svindel. Éin person er sikta i saka.

FOTO: FREDRIK HANSEN



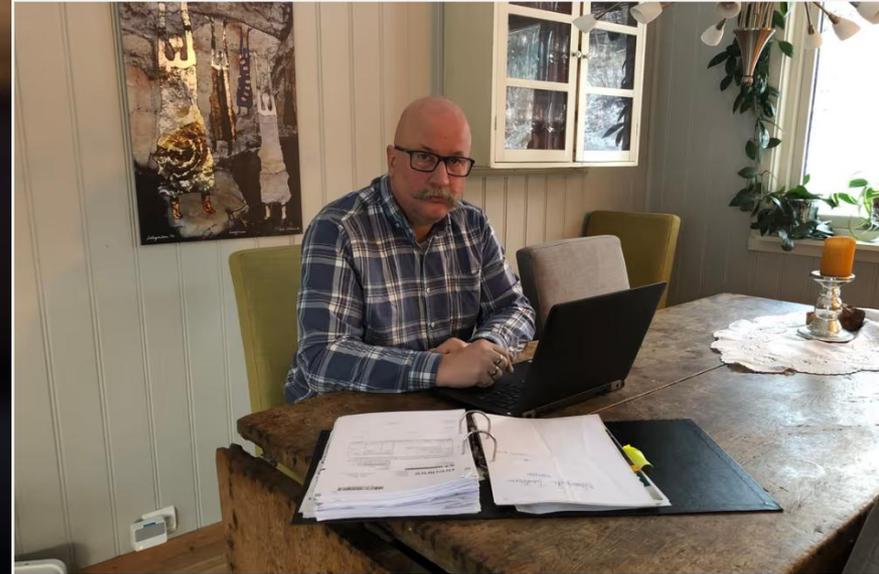
Economic abuse and coercion



Liability and regulatory gaps



Trond raser mot banken etter at sønnens samboer tok opp lån med hans BankID



LANG KAMP ETTER SVINDEL: Trond Lysholm har kjempet en lang kamp for sin sønn, etter at sønnens tidligere samboer tok opp lån med hans BankID. Foto: (privat)

Når juss blir absurd

Petter Omland, Husleie- og gjeldsgruppa i Jussbuss

KRONIKK: En ung kvinne ble dømt til å erstatte forbruksgjeld tatt opp av moren i hennes navn. Avgjørelsen er juss på sitt mest absurde.

BankID-svindel:

- Min ektemann misbrukte BankID og tok sitt eget liv

Ektemannen tok sitt eget liv etter BankID-svindel, og nå advarer kvinnen andre par. - Det er jo helt forferdelig, for man skal jo stole på sin egen ektefelle.

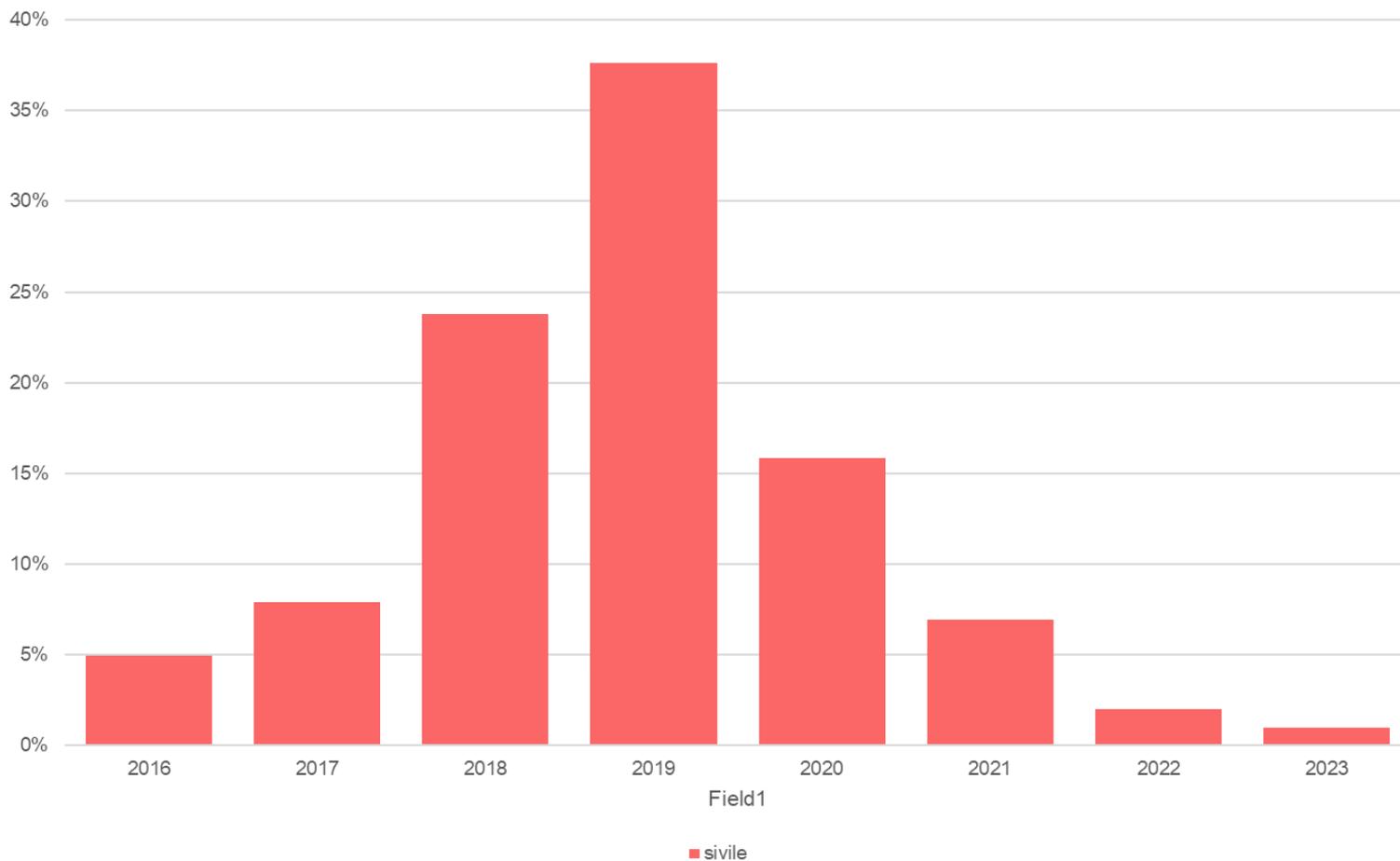
- Supreme Court decision, HR-2020-2021-A
- New liability framework in the financial contracts act
 - Extending PSD2-style protections for unauthorised credit fraud

Historisk bankID-dom: – Vil hjelpe andre i samme fortvilte situasjon

Denne uken falt en dom i Høyesterett som kan bli viktig for mange utsatt for ID-tyveri. Så langt har de fleste måttet betale regningen selv – selv om andre har svindlet dem.



Civil law court cases on eID fraud in Norway



Preventing and mitigating identity theft and coercion in the EDIW

- Technical measures in the wallet
- Measures implemented by relying parties
- A robust legal framework to mitigate the consequences of identity theft and coerces transactions

Digital exclusion and discrimination

Thomas får ikke bruke BankID fordi han ikke kan lese og skrive

Strengere regler for BankID har gjort at flere brukere har mistet tilgang: – Diskriminering, mener Thomas Martiniussen (26), som har cerebral parese.



BANKUAVHENGIG BANK ID: – På Finans Norge sin Forbrukerkonferansen lanserte vi ideen om en BankID som kan deles ut av andre enn bankene, en «bankuavhengig» BankID», sier Øyvind Westby Brekke, daglig leder i BankID BankAsept AS (i midten) (Foto: Lisbet Jære)

BankID er diskriminerende

BankID dekker i dag 96 prosent av befolkningen mellom 20 og 70 år, men mange faller utenfor. Uten tilgang til tjenester som Helsenorge og VIPPS, blir hverdagen vanskelig for mange.



Lisbet Jære

Senest oppdatert sep 25, 2024

Ensuring inclusion

- Policymakers should ensure that
 - Legal representatives and guardians are allowed to assist users in a secure and regulated manner.
 - Clear mechanisms for representation are established to ensure that individuals who cannot independently or with assistance manage their eID can still access essential services.
 - Public oversight and accountability measures are in place to prevent banks and other private entities from acting as arbitrary gatekeepers.
 - Redress mechanisms are available for individuals who are excluded due to restrictive interpretations of "sole control."
 - Alternative access methods to both private and public services are actively maintained.

SUATE-MANAGED DIGITAL IDENTITY

- SEBURE-MANAGED
- DIGITAL, INCLUSIVE
- DEMOCRATIC OVERSIGHTS
- DEMOCRATIC

DIGITAL IDENTITY



PRIVATE CONTROLE

- SECURITY
- PROFITING MOTIVES
- LACK OF ACCOUNTABILITY



Discussion

Coffee break
14:15-14:30

Combatting cross-border social security fraud and abuse in the application of the rules determining the applicable legislation

Rob Cornelissen,
Moves visiting expert

I. The rules determining the applicable social security legislation

- Title II Reg. 883/2004: Art. 11-16
- One of the main pillars social security coordination
- Objective: prevent conflicts of law, both negative and positive conflicts of law.
- Exclusive effect of conflict of law rules
 - Art. 11(1): *“Persons to whom this Regulation applies shall be subject to the legislation of a **single** Member State **only**”.*

Applicable legislation. Differences between labour law and social security

- Labour law
 - Worker and employer have freedom to choose applicable legislation (curtailed to some extent): Art. 8 Reg. 593/2008
 - Posted worker can be subject to labour law sending MS **and** to labour law host MS (Dir. 96/71 as amended by Dir. 2018/957)
- Social security
 - Conflict rules are **mandatory** for MS and for workers and employers (C-345/09, Van Delft). No freedom to choose. Applicable legislation depends on objective situation (C-610/18, AFMB)
 - Worker is subject to legislation of **one** MS only!

Rules Reg. 883/2004 determining the applicable social security legislation

- Main rule: legislation MS of work (*lex loci laboris*): Art. 11(3)(a). Why?
 - Guarantees **equal treatment** of all persons on territory of a MS (C-328/20, Commission v. Austria)
 - Prevents **distortion of competition** between employers hiring national/mobile workers (C-784/19, Team Power)
- Special rules for:
 - Posted workers: Art. **12**
 - Workers normally pursuing their activities in two or more MS: Art. **13**

II. Posted workers

- *Posting* within meaning Reg. 883/2004 **differs** from *posting* within meaning Directive 96/71
 - Directive 96/71 applies only in framework transnational provision of services (subcontracting, intra-corporate transfers, temporary employment agencies)
 - Such framework is **not** required for *posting* within meaning Reg. 883/2004
 - E.g: business trips, visits of clients, training organised by employer, participating to seminars

Objective and result of Art. 12

- Objective: simplification
 - Avoids administrative complications and fragmentation of social security career; guarantees continuity of applicable social security legislation
 - ECJ (35/71, Manpower): serves interests of workers, employers and institutions
- Result:
 - Contributions on level sending Member State
 - No contributions due in Member State of work (exclusive effect of conflict of law rules!)

Balance sought by Art. 12

- Aim Art. 12: strike a balance between
 - principle of equal treatment between mobile workers and national workers
 - avoiding administrative complications in interests of workers and employers.
- Possible risks if applicable legislation is not Member State of work:
 - Competitive advantage employer, in particular in labour intensive (e.g. construction) sectors
 - Risk of downward pressure on level social security protection state of work (784/19, Team Power Europe)
- Therefore, strict conditions for Art. 12

Conditions Art. 12

- 1. Temporary: max. 24 months
- 2. Integration employer in social security system sending MS: employer must '*normally*' carry out its activities in sending MS: employer must exercise **substantial activities** in MS of establishment (Art.14(2) Reg. 987/2009)
 - Decision A2 Adm. Comm clarifies notion '*substantial activities*'

Conditions Art. 12

- 3. Worker must be sent to another MS to perform work there *on employer's behalf*.
 - presence of “**direct relationship**” between worker and employer that posted him during the whole period of posting
 - Notion “*direct relationship*” clarified by Decision A2
 - Worker continues to be under authority of employer that posted him: responsibility for employment, contract, dismissal, disciplinary measures

Conditions Art. 12

- 4. Continuity (“a person...shall *continue to be subject to...*”): person must have been subject to legislation sending MS before being sent
 - Not necessary having been a worker; person may have been subject to legislation sending MS on basis of residence (451/17, Waltopia)
- 5. Replacement ban
 - “*provided...he/she is not sent to replace another posted person*”

Recent case-law ECJ: Art. 12 to be interpreted strictly

- ECJ underlines that Art. 12 derogates from main rule. Therefore, it must be interpreted **strictly**
 - Replacement ban applies also if a worker is sent by his employer to another MS to replace a worker who was sent by another employer from another MS (C-527/16, Alpenrind)
 - A temporary work agency established in a MS only fulfills the condition that it exercises “*substantial activities*” in that MS if it carries out a significant part of its activities not only of selecting and recruiting, but also of assigning temporary workers to local user undertakings (C-784/19, Team Power)

Procedures to be followed in case of posting

- The employer which posts a worker to another MS must inform institution sending MS, “*whenever possible in advance*” (Art. 15 Reg. 987/2009).
- Institution sending MS shall deliver document A1 after having checked whether conditions have been fulfilled
 - ECJ (C-527/16, Alpenrind): document A1 can be issued retrospectively!

Mutual Information duties

- Institution sending MS must inform:
 - Institution MS of work “*without delay*” on applicable legislation (Art. 15 Reg. 987/2009)
 - Employers and workers about conditions for posting within meaning Reg. and alert them on possibility controls (Practical Guide)
- Workers and employers must inform correctly institution sending MS about their situation (Art. 76(4) Reg. 883/2004; Art. 3(2) Reg. 987/2009; Art. 5(b) Decision A2 Adm. Comm)

The controversy: the **enforcement** and **compliance** gap

- Division of tasks: institution of sending MS has to check whether conditions are fulfilled
 - If so, institution delivers document **A1** (Art. 19(2) Reg. 987/2009)
 - ECJ: document A1 has **binding** effect, both for social security institutions and judiciary of MS of work
 - Even if the judiciary of MS of work has found that the conditions of Art. 12 have not been fulfilled (C-620/15, Rosa Flussschiff)
 - A decision of the institution sending MS to “*provisionally*” suspend an A1 document does not entail the loss of its binding effects (C-410/21, DRV Intertrans)

The controversy: the enforcement and compliance gap

- In cases of dispute: dialogue and conciliation procedure (Art. 76(6) Reg. 883/2004 and Art. 5 Reg. 987/2009) is compulsory, even in cases of **fraud**
- Effectiveness of procedure criticized.
 - long duration (Decision A1 Adm. Comm).
First dialogue (two stages). Success depends on willingness institutions sending MS.
 - If no satisfactory solution: conciliation: refer matter to Adm. Comm (Conciliation Board)

Dialogue and conciliation procedure

- ECJ: Even if Administrative Commission is of opinion that institution of sending MS has issued document A1 incorrectly and that document should be withdrawn, this document is binding for institutions and judiciary MS of work, as long as institution sending MS has not withdrawn document (C-527/16, Alpenrind)

The controversy. The enforcement and compliance gap

- Often A1 documents have been issued without much verification whether conditions have been fulfilled! (rubber-stamping rather than investigation!)
 - Report EUROFOUND: *“Improving the monitoring of posted workers in the EU”*, 2020
- Institutions and judiciary of MS of work cannot unilaterally ignore document A1
- They have to follow dialogue and conciliation procedure

Fraud

- Only in cases of fraud, judiciary (not institution!) MS of work may, under strict conditions, disregard document A1(C-359/16, Altun).
- ECJ: **Prohibition of fraud and abuse** of rights is a general principle of EU law.
 - EU legislation cannot be invoked to cover transactions carried out for purpose of fraudulently or wrongfully obtaining advantages provided for by EU law

Fraud

- Burden of proof “*fraud*” not easy
 - Objective element: conditions are not fulfilled
 - Subjective element: there must be intention to circumvent conditions
 - either deliberate action: misrepresentation of real situation concerning posted worker or concerning undertaking posting the worker
 - either deliberate omission: concealment of relevant information with intention of evading conditions Art. 12 Reg. 883/2004

Fraud

- Dialogue and conciliation procedure constitutes an **essential prerequisite** for determining whether the conditions for fraud are met (C-410/21, Intertrans)
- Therefore, even if there is clear evidence of fraud, document A1 can only be disregarded by judiciary host State if:
 - Dialogue procedure has been promptly launched by institution of host MS and the institution of sending MS has failed to review its decision within a reasonable period of time (C-370/71, Vueling)
 - What is “*reasonable period of time*”?
 - A fair trial is guaranteed for persons concerned: they must have opportunity to rebut evidence that document A1 was obtained fraudulently

Fraud. EX (C-421/23) judgment 23 January 2025

- EX, Portuguese contractor posted several Portuguese workers to Belgium. Produced A1 documents. Belgian inspectors found out that documents were falsified. They were not issued by Portuguese institution. EX did not perform substantial activities in P. Portuguese institution collected contributions in respect of work carried out by workers concerned.
- Portuguese institution having been contacted by Belgian institution confirmed that documents were false and that EX did not perform substantial activities in Portugal.
- Criminal proceedings before B court

Fraud. Case EX (C-421/23)

- Preliminary question to ECJ:
 - Does dialogue and conciliation procedure constitute a compulsory precondition to the establishment of fraud by a court of host MS even when A1 documents are false?
- ECJ: yes.
 - Court of host MS cannot give a final ruling on existence of fraudulent posting without first verifying that dialogue and conciliation procedure had been complied with
 - not only concerning authenticity of A1 documents
 - but also on determination of applicable legislation which should be applied to such workers during period of alleged posting

- Fraud. EX judgment 23 January 2025
- ECJ: EU legislature has not provided for any particular form to be followed in order to initiate dialogue procedure
 - In present case: Belgian and Portuguese institutions have contacted each other.
 - Portuguese institution had confirmed that documents were false and that conditions Art. 12 had not been fulfilled so that Belgian legislation should apply
 - Therefore, dialogue and conciliation procedure had been followed concerning both aspects.

Evaluation case-law binding effect A1

- Based on:
 - Importance exclusive effect conflict of law rules
 - Principle of loyal cooperation and mutual trust (Art. 4(3) TEU)
 - Principle requires institution sending MS to carry out proper assessment of facts and to ensure that information contained in A1 document is accurate (C-359/16, Altun)
 - Depends on **willingness and capacity** institution sending MS.
 - Has sending MS **incentive and capacity** to monitor compliance with posting conditions? Mission impossible?
 - Problem: the less sending MS verifies compliance with conditions Art. 12, the more problematic is their binding effect!

III. Art. 13. People working in 2 or more MS

- Number of A1 documents issued on basis Art. 13 increased from 170.000 in 2010 to 1.700.000 in 2023. Represents around 31% of all A1 documents!
- Covers people “*normally*” working in two or more MS. Therefore, *lex loci laboris* cannot be used to determine applicable legislation.

Art. 13. Connecting factors

- Workers pursuing “*substantial part*” of activities in MS of residence: subject to legislation of that MS.
 - Art. 14(8) Reg. 987/2009: indicative criteria: working time and/or remuneration. A share of less than 25% is indication that there are no “substantial activities”.
 - Different interpretations of Art. 14(8) among MS
- If no “*substantial part*” in MS of residence: worker is subject to legislation of MS where “**registered office or place of business**” of employer is established

Art. 13. Risk of “abuse”

- Current definition Art. 14(5a) Reg. 987/2009:
 - “..place where the essential decisions of the undertaking are adopted and where the functions of its central administration are carried out”. Rather vague.
 - Indicative list in “Practical Guide” agreed by Adm. Comm. Contains a number of criteria.
- Risk of “forum shopping”
 - Businesses search for most advantageous social security legislation

Art. 13. Risk of “abuse”

- “*Posting*” within meaning Art. 12 subject to strict conditions and limitations
- Art. 13: no such conditions and limitations
 - No requirement for employer to pursue significant activities in MS of establishment
 - No time limit for use Art. 13
 - Workers not required having been subject to legislation of MS where employer is established before Art. 13 is used

Case-law: the importance of combatting “abuse”

- What is “*abuse*”? Adv-Gen Saugmandsgaard in case C-359/16, Altun):
 - Objective element: despite the formal observance of the conditions laid down in EU law, the purpose of those rules has not been achieved
 - Subjective element: intention to obtain an advantage from EU rules by creating artificially the conditions laid down for obtaining it.

Risk of “abuse”

- The legislature has in 2012 recognised the risk of “abuse” by inserting a new par. 5b in Art. 14 Reg.987/2009:
 - “**Marginal activities** shall be disregarded for the purpose of determining the applicable legislation under Article 13 of the basic regulation....”
 - Practical Guide: “*Marginal activities are activities that are permanent but insignificant in terms of time and economic return.*” Less than 5% of working time and/or remuneration should be regarded as marginal activities.

Case-law: the importance of combatting “abuse”

- ECJ (C-570/15, X):
 - It is important to avoid an interpretation of the rules that *“would create a risk of the conflict rules contained in Title II of the regulation being **circumvented**”*
- The AFMB case (C-610/18)
 - Truckdrivers residing in NL work for undertaking established in NL. They do not perform *“substantial activities”* in NL. Therefore, they are subject to legislation of MS where *“registered office or place of business of employer”* is established. After a while the undertaking outsources part of operations to Cyprus. Since then, it is a company in CY that recruits and pays the truckdrivers. In reality the drivers work entirely at disposal of NL undertaking which exercises actual authority over them and bears in reality wage costs.
 - Question raised to ECJ: who is the *“employer”* within meaning Art. 13 Reg. 883/2004?

The AFMB judgment. ECJ:

- The application of the conflict of law rules depends not on the free choice of workers, employers or national authorities, but *“depends solely on the objective situation of the worker concerned”*
- It is important to avoid an interpretation of the conflict of law rules that would *“make it easier for employers to be able to resort to purely artificial arrangements in order to exploit the EU legislation with the sole aim of obtaining an advantage from the differences that exist between the national rules. Such exploitation would be likely to have a race to the bottom effect of the social security systems of the Member States and, perhaps, ultimately, reduce the level of social protection offered by those systems”*
- In same line: EFTA Court 14 December 2021 (E-1/21)

The Intertrans case (C-410/21)

- The owner of a transport company in B set up a transport company in Slovakia. Slovakian institution issued A1 documents attesting that several employees of Slovakian company were affiliated to Slovak social security system. They did not perform substantial activities in MS of residence. Therefore, they were subject to legislation of MS where “*registered office or place of business*” of employer” is situated. The truck drivers drove mainly in neighbouring countries of B and started and finished their shifts in the premisses of the B company.

The Intertrans case (C-410/21)

- The Slovakian company had an EU licence for road transport issued by competent authorities. In order to obtain such licence you must proof that company has in MS concerned a “stable and effective establishment” within meaning of road transport regulation 1071/2009
- Question raised to ECJ: does notion “*stable and effective establishment*” within meaning Reg. 1071/209 correspond to notion “*registered office or place of business*” within meaning of Reg. 883/2009?

“ Intertrans judgment

- ECJ: NO
 - “*stable and effective establishment*” within meaning Reg. 1071/2009 refers to place where undertaking’s core business documents are held and where its equipment is.
 - “*registered office or place of business*” within meaning Art. 13 Reg. 883/2009 is determined by the place from which an undertaking is in fact managed and organised”.

IV. Perspectives

- Fraud and abuse undermine solidarity which is at the basis of social security
 - Measures to combat fraud and abuse are aimed at avoiding unfair competition and guarantee that contributions are paid to the right MS
 - Action to combat fraud and abuse is part of proper implementation of the EU rules determining the applicable legislation
 - Therefore, fight against fraud and abuse is integrated in work Adm. Comm
 - Decision H5: closer and more effective cooperation between authorities and institutions. Network of National contact points for fraud (NCP); exchange of information on a secured platform

Perspectives

- 1. European Labour Authority (ELA)
- 2. Adapt the rules laid down in Reg. 883/2004 and 987/2009
 - The 2016 Commission proposal (modified during negotiations)
 - Not yet adopted
 - Provisional agreements 2019 and 2021
 - Swedish Presidency compromise text (April 2023)

ELA

- Mandate is supportive, not coercive
- Considerable budget and manpower
 - support Member States' effective compliance with cooperation obligations, including on information exchange
 - cooperation with H5 NCP Platform
 - encourage use of innovative approaches to effective and efficient cross-border cooperation
 - facilitate access to data in real time and detection of fraud
 - mediate between MS and share good practices
 - coordinate and support joint inspections
 - report to the Commission twice a year on unresolved requests between MS

2016 Commission proposal

- Modest changes as to conditions Art. **12**.
- More substantial changes concerning **enforcement** of rules
 - New Art. 76a Reg. 883/2004 empowers Commission to adopt implementing acts to ensure uniform conditions for applying Art. 12 and 13.
 - Under current rules MS are free to design procedures for issue and reconsideration of A1 documents
 - New rules : standard procedures for issuance, format and content document A1, for elements to be verified before issuing document A1 and for withdrawal or rectification of document A1 if contested by host State

2016 Commission proposal. Enforcement of rules

- Series of provisions aimed at facilitating information flows and at improving dialogue and control mechanism
 - Insertion of deadlines, retro-active withdrawal A1 document in cases of fraud
 - Definition of “*fraud*” (Art. 1 Reg. 987/2009): “*any intentional act or intentional omission to act, in order to....avoid paying social security contributions, contrary to the law of the Member State(s) concerned, the basic Regulation or this Regulation*”
- Compulsory prior notification (Art. 15 Reg. 987/2009)
 - Employer **must** inform institution sending MS in advance
 - Exception for “*business trips*” or activities with a duration of no more than three days with a month. Definition “*business trips*”
 - In exceptional cases: possibility to notify after start activities, but not later than three days

2016 Commission proposal. Exchange of data

- Insertion of clear legal basis for MS to exchange information with each other, either on individual level concerning an individual case or on a general level with data matching, for the purposes of fight against fraud (Art. 2(2) Reg. 987/2009
 - Data exchanges have to comply with requirements of 2016 General Data Protection Regulation

2016 Commission proposal aimed at addressing “forum shopping” (Art. 13)

- Legislation of MS where “*registered office or place of business*” is located would apply only if the employer carries out **significant** activities there.
- Still subject of negotiations....

V. Conclusions

- Posting (Art. 12 Reg. 883/2004) is subject to strict conditions aimed at avoiding
 - unfair competition and
 - risk of downward pressure on level social security protection MS of work
- However, the enforcement and compliance gap often leads to situations where A1 documents are delivered without the conditions being met.
- The binding effect of document A1- which is the result of case-law of ECJ and now codified in Art. 5 Reg. 987/2009- constitutes a considerable restriction for the authorities, institutions and judiciary of MS of work to correct unlawful situations.
 - They cannot unilaterally decide that their own social security system applies. They have to follow the dialogue and conciliation procedure. The effectiveness of this procedure is criticised.

Conclusions

- Only in case of **fraud** the judiciary of MS of work can disregard document A1, but under strict conditions:
 - Dialogue and conciliation procedure has been initiated promptly and the institution sending MS has failed to undertake review document A1 within reasonable period of time
 - Where institution sending MS has collected contributions, dialogue and conciliation procedure must deal not only with validity (authenticity) of document A1 but also determination applicable social security legislation during period of alleged “posting”
 - A fair trial is guaranteed to persons concerned: they must have opportunity to rebut evidence that document A1 was obtained fraudulently

Conclusions

- Risks for “*forum shopping*” even greater in relation to Art. 13
- Closer and more effective cooperation between competent authorities and institutions is crucial in fight against fraud and abuse.
- The European Labour Authority contributes to a transnational enforcement
- 2016 Commission proposal would be an improvement but would not solve all problems.

• *Thank you for your attention!*

Discussion

Closing