

**Question for written answer E-004636/2018  
to the Commission**

Rule 130

**Dominique Martin (ENF)**

**Subject:** Posted workers: corruption can block checks on the payment of social security contributions in the country of origin

The Court of Justice of the European Union has confirmed that courts in the host country are not empowered to check the validity of an A1 certificate (formerly E101) certifying social security affiliation in the country of origin<sup>1</sup>. Worse still, this is the case even if the certificate has been issued retroactively and even if the Administrative Commission for the Coordination of Social Security Systems between European countries has concluded that these certificates are invalid.

This approach is based on the principle of sincere cooperation between Member States, referred to in Article 4(3) of the Treaty on European Union (TEU)<sup>2</sup>.

However, the Brussels Commission has drawn attention to situations of concern relating to the rule of law in Bucharest, Budapest and Warsaw<sup>3</sup>. Local governments are reported to be stalling the fight against corruption or the implementation of the rule of law. The Commission has even deployed its legal nuclear weapon against some of these countries (Article 7 TEU).

Does the Commission therefore acknowledge that the French Government and courts must regain the right to check and rescind fraudulent A1 certificates?

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<sup>1</sup> More specifically, the A1 certificate provides certification of the application to individuals of a provision of Title II of Regulation 883/2004. The E101/A1 form certifies the application of the legislation and proves that social security contributions have not been paid in the State in which the posted worker's professional activity is conducted (e.g. France). The health insurance fund at the place of the company's registered office is the sole body competent to issue it (e.g. Romania). [https://www.ameli.fr/employeur/demarches/detachement-etranger/detachement-etat-ue-eee-suisse#text\\_15396](https://www.ameli.fr/employeur/demarches/detachement-etranger/detachement-etat-ue-eee-suisse#text_15396)

<sup>2</sup> As the Court has found with regard to the E101 certificate, if it were accepted that the competent national institution could, by bringing an indictment in the Member State hosting the worker, have the certificate declared invalid, the system based on sincere cooperation between the competent institutions of the Member States would be in danger of being compromised.  
<http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d0f130dceac0be60f0c149de897ce629fac104e1.e34KaxiLc3eQc40LaxqMbN4Pb3yRe0?text=&docid=198887&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=339802#Footnote10>

<sup>3</sup> [http://www.lepoint.fr/politique/emmanuel-berretta/corruption-et-abus-de-pouvoir-la-roumanie-en-pleine-tempete-15-07-2018-2236307\\_1897.php](http://www.lepoint.fr/politique/emmanuel-berretta/corruption-et-abus-de-pouvoir-la-roumanie-en-pleine-tempete-15-07-2018-2236307_1897.php); <https://www.la-croix.com/Monde/Europe/Menace-lutte-anti-corruption-Roumanie-2018-05-31-1200943441>; <https://www.lejdd.fr/international/europe/roumanie-le-pouvoir-paralyse-la-lutte-contre-la-corruption-3751175>