

Provisional text

JUDGMENT OF THE COURT (Fifth Chamber)

24 September 2026 (*)

(Reference for a preliminary ruling – Social policy – Employer’s obligation to inform employees of the conditions applicable to the contract or employment relationship – Directive 91/533/EEC – Article 8(1) – Defence of rights – Scope of that provision – Protection of the rights conferred by that directive – Article 3 – Right of the employee to receive a document containing information on the essential of the contract or employment relationship)

In Case C-369/25,

REQUEST for a preliminary ruling under Article 267 TFEU from the Tribunale di Napoli (District Court, Naples, Italy), made by decision of 31 March 2025, received at the Court on 3 June 2025, in the proceedings

LW

v

Trenitalia SpA,

Istituto nazionale della previdenza sociale (INPS),

THE COURT (Fifth Chamber),

composed of M.L. Arastey Sahún (Rapporteur), President of the Chamber, J. Passer, E. Regan, D. Gratsias and B. Smulders, Judges,

Advocate General: T. Čapeta,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- LW, by F. Riccardi and V. Riccardi, avvocati,
- Trenitalia SpA, by A. Abignente and G. Ronconi, avvocati,
- the Istituto nazionale della previdenza sociale (INPS), by C. D’Aloisio, E. De Rose, E.A.V. Sciplino and A. Sgroi, avvocati,
- the Italian Government, by S. Fiorentino, acting as Agent, and by E. Farinelli and P. Garofoli, avvocati dello Stato,
- the European Commission, by C. Biz and S. Delaude, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Articles 2 and 8 of Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (OJ 1991 L 288, p. 32).
- 2 The request has been made in proceedings between LW, on the one hand, and Trenitalia SpA and the Istituto nazionale della previdenza sociale (INPS) (National Institute for Social Security, Italy) ('the INPS'), on the other, concerning the payment to the INPS by Trenitalia of social security contributions, in respect of salaries received by LW, which the INPS considers to be time-barred.

Legal context

European Union law

- 3 The second, seventh, twelfth and thirteenth recitals of Directive 91/533 stated:

'Whereas ... certain Member States have considered it necessary to subject employment relationships to formal requirements; whereas these provisions are designed to provide employees with improved protection against possible infringements of their rights and to create greater transparency on the labour market;

...

Whereas it is necessary to establish at Community level the general requirement that every employee must be provided with a document containing information on the essential elements of his contract or employment relationship;

...

Whereas it is necessary for Member States to guarantee that employees can claim the rights conferred on them by this Directive;

Whereas Member States ... [are] obliged to take the necessary steps enabling them at all times to guarantee the results imposed by this Directive'.

- 4 Article 2 of that directive, entitled 'Obligation to provide information', provided:

'1. An employer shall be obliged to notify an employee to whom this Directive applies, hereinafter referred to as "the employee", of the essential aspects of the contract or employment relationship.

2. The information referred to in paragraph 1 shall cover at least the following:

- (a) the identities of the parties;
- (b) the place of work; where there is no fixed or main place of work, the principle that the employee is employed at various places and the registered place of business or, where appropriate, the domicile of the employer;
- (c)
 - (i) the title, grade, nature or category of the work for which the employee is employed; or
 - (ii) a brief specification or description of the work;
- (d) the date of commencement of the contract or employment relationship;
- (e) in the case of a temporary contract or employment relationship, the expected duration thereof;
- (f) the amount of paid leave to which the employee is entitled or, where this cannot be indicated when the information is given, the procedures for allocating and determining such leave;

- (g) the length of the periods of notice to be observed by the employer and the employee should their contract or employment relationship be terminated or, where this cannot be indicated when the information is given, the method for determining such periods of notice;
- (h) the initial basic amount, the other component elements and the frequency of payment of the remuneration to which the employee is entitled;
- (i) the length of the employee's normal working day or week;
- (j) where appropriate;
 - (i) the collective agreements governing the employee's conditions of work;
 - or
 - (ii) in the case of collective agreements concluded outside the business by special joint bodies or institutions, the name of the competent body or joint institution within which the agreements were concluded.

3. The information referred to in paragraph 2(f), (g), (h) and (i) may, where appropriate, be given in the form of a reference to the laws, regulations and administrative or statutory provisions or collective agreements governing those particular points.'

5 Article 3 of Directive 91/533, entitled 'Means of information', was worded as follows:

'1. The information referred to in Article 2(2) may be given to the employee, not later than two months after the commencement of employment, in the form of:

- (a) a written contract of employment; and/or
- (b) a letter of engagement; and/or
- (c) one or more other written documents, where one of these documents contains at least all the information referred to in Article 2(2)(a), (b), (c), (d), (h) and (i).

2. Where none of the documents referred to in paragraph 1 is handed over to the employee within the prescribed period, the employer shall be obliged to give the employee, not later than two months after the commencement of employment, a written declaration signed by the employer and containing at least the information referred to in Article 2(2).

...'

6 Article 4 of that directive, entitled 'Expatriate employees', provided, in paragraph 1 thereof:

'Where an employee is required to work in a country or countries other than the Member State whose law and/or practice governs the contract or employment relationship, the document(s) referred to in Article 3 must be in his/her possession before his/her departure and must include at least the following additional information:

- (a) the duration of the employment abroad;
- (b) the currency to be used for the payment of remuneration;
- (c) where appropriate, the benefits in cash or kind attendant on the employment abroad;
- (d) where appropriate, the conditions governing the employee's repatriation.'

7 Article 5 of Directive 91/533, entitled 'Modification of aspects of the contract or employment relationship', provided, in paragraph 1 thereof:

‘Any change in the details referred to in Articles 2(2) and 4(1) must be the subject of a written document to be given by the employer to the employee at the earliest opportunity and not later than one month after the date of entry into effect of the change in question.’

8 Article 8 of that directive, entitled ‘Defence of rights’, stated, in paragraph 1 thereof:

‘Member States shall introduce into their national legal systems such measures as are necessary to enable all employees who consider themselves wronged by failure to comply with the obligations arising from this Directive to pursue their claims by judicial process after possible recourse to other competent authorities.’

Italian law

The Civil Code

9 Article 2114 of the Codice civile (Civil Code) provides:

‘Special laws ... shall determine the cases covered by compulsory social security and social welfare and the forms thereof, as well as the corresponding contributions and benefits.’

10 Under Article 2116 of the Civil Code:

‘The employee shall be entitled to the benefits referred to in Article 2114, even when the employer has not duly paid the contributions owed to the social security and social welfare institutions, unless otherwise established by provisions of special laws.’

Where those provisions establish that social security and social welfare institutions are not required to pay out, whether in full or in part, the amounts due as benefits following the fact that payment of contributions has not been made or has been made incorrectly, the employer shall be liable for the loss that the employee derives therefrom.’

Law No 1338/62

11 Article 13 of legge n. 1338 – Disposizioni per il miglioramento dei trattamenti di pensione dell’assicurazione obbligatoria per l’invalidità, la vecchiaia e i superstiti (Law No 1338 laying down provisions for the improvement of compulsory invalidity, old-age and survivors’ pension payments) of 12 August 1962 (GURI No 229 of 11 September 1962, p. 3727), in the version applicable to the dispute in the main proceedings (‘Law No 1338/62’), provides:

‘... an employer who has failed to pay contributions to the compulsory invalidity, old-age and survivors’ insurance schemes and who is no longer able to make such contributions due to being time-barred ... may apply to [the INPS] for the grant ... of a reversionary life annuity equal to the pension or the part of the pension corresponding to the compulsory insurance which would be payable to the employee had the unpaid contributions been made.

...

Where an employee is unable to obtain from his or her employer the grant of the annuity under this Article, that employee may himself or herself take the place of the employer, without prejudice to his or her right to compensation for the loss suffered ...

...’

Law No 335/95

12 Article 1(6) of legge n. 335 – Riforma del sistema pensionistico obbligatorio e complementare (Law No 335 reforming the compulsory and supplementary pension scheme) of 8 August 1995 (GURI No 190 of 16 August 1995, Ordinary Supplement No 101), in the version applicable to the dispute in the main proceedings (‘Law No 335/95’), provides:

‘The amount of the annual pension under the compulsory general insurance scheme and under the schemes which replace or exclude it shall be determined based on the contributions system by multiplying the individual amount of the contributions by the conversion coefficient set out in the annexed Table A for the age of the insured person at the time of retirement. ...’

13 Article 3(9) of that law states:

‘Compulsory social security and social welfare contributions shall be time-barred and may not be paid on expiry of the following periods:

(a) 10 years for contributions to the Employee Pension Fund ... With effect from 1 January 1996, that period shall be reduced to five years except in cases of a complaint made by the worker or his or her survivors;

...’

The dispute in the main proceedings and the questions referred for a preliminary ruling

14 In May 2003, LW, a worker, was placed with the company Trenitalia through a temporary-work agency.

15 By a judgment of 31 October 2018, the Corte d’appello di Napoli (Court of Appeal, Naples, Italy) found that that work placement had been made in breach of the Italian legislation transposing Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work (OJ 2008 L 327, p. 9), and for that reason established that there was an employment relationship between LW and Trenitalia as from May 2003.

16 In compliance with that judgment, Trenitalia made LW a member of its staff with effect from 1 July 2019.

17 In addition, by another judicial decision, Trenitalia was ordered to pay LW EUR 110 308.13 in respect of arrears of salary.

18 Subsequently, Trenitalia made social security contribution payments to the INPS in respect of the salaries paid to LW for the period from January 2016 to June 2019.

19 However, that company did not make any social security contribution payments to the INPS in respect of the salaries paid to LW for the period from May 2003 to December 2015 (‘the contributions at issue’), on the ground that the INPS allegedly considered those contributions as being time-barred in the light of the five-year limitation period laid down in Article 3(9) of Law No 335/95.

20 LW has brought an action before the Tribunale di Napoli (District Court, Naples, Italy), which is the referring court, seeking, as a principal claim, payment of the contributions at issue.

21 LW also seeks, in the alternative, the grant of a life annuity under Article 13 of Law No 1338/62 and, in the further alternative, the payment of damages under the second paragraph of Article 2116 of the Civil Code.

22 Trenitalia and the INPS have raised objections to LW’s principal claim. In particular, the INPS contends that, in respect of the periods which are time-barred under Article 3(9) of Law No 335/95, that claim is inadmissible. Accordingly, it would not be possible for Trenitalia to pay the contributions at issue to the INPS but it would be possible for it to request the grant of a life annuity under Article 13 of Law No 1338/62.

23 The referring court states that that argument put forward by the INPS appears to be in line with the settled case-law of the Corte suprema di cassazione (Supreme Court of Cassation, Italy).

24 However, the referring court is uncertain whether the limitation period for the contributions at issue is consistent with Directive 91/533 and, if not, whether LW could obtain, on the basis of that directive, an

order requiring Trenitalia to pay those contributions.

- 25 In that regard, in the first place, the referring court is uncertain as to whether a Member State is required only to ensure that the engagement document provided for in Article 3 of the directive, containing the information referred to in Article 2 thereof, is given to the employee, or whether it is required, under that directive, also to ensure the protection of the rights which are to be set out in that document, including the right to remuneration.
- 26 That court is of the view that the provisions of Directive 91/533 weigh in favour of the second option. It states that, first, it appears from the twelfth and thirteenth recitals of that directive that the aim of the directive is to safeguard the rights which arise from the employment relationship and which are to be set out in the engagement document, with the result that the Member State is obliged to take the necessary steps to ensure the effectiveness of those rights. That interpretation is supported by the use of the word ‘rights’ in the plural form, as opposed to the singular form, in Article 8 of the directive, with the result that that directive appears to be aimed at protecting the rights set out in that document, and not solely the right to be informed about them.
- 27 In the second place, the referring court states that, in accordance with the case-law of the Court of Justice, a retirement pension paid by a public body constitutes ‘deferred remuneration’ when it is paid to a particular category of workers and calculated on the basis of their remuneration and the duration of their affiliation. That is the case in Italy, as retirement pension amounts are dependent on the length of contribution in years and the amounts paid as contributions, calculated as a percentage of an employee’s monthly remuneration, in accordance with Article 1(6) of Law No 335/95.
- 28 That court is uncertain whether a classification of such a retirement pension as ‘deferred remuneration’ would bring the right to payment of social security contributions within the scope of Directive 91/533.
- 29 In the third and last place, the referring court states that it follows from the settled case-law of the Corte suprema di cassazione (Supreme Court of Cassation) that there is no action in Italian law enabling an employee to seek an order requiring the INPS to rectify his or her position in respect of social security contributions.
- 30 The only possibilities open to an employee in a situation such as that at issue in the main proceedings are either to ask the employer to make good the damage suffered, under the second paragraph of Article 2116 of the Civil Code, or to be subrogated to the employer for the grant of a life annuity pursuant to Article 13 of Law No 1338/62. However, such actions could be brought only at the time of the employee’s retirement, that is to say, at a time when the social security contributions in question would, as in the present case, be time-barred.
- 31 To avoid being time-barred in this way, the employee would have to bring legal proceedings against his or her employer and the INPS while the employment relationship was still ongoing. However, for such proceedings to result in the payment to the INPS of social security contributions on the part of the employer, it would be necessary that the INPS enter an appearance and claim that payment.
- 32 In those circumstances, the referring court takes the view that, were a retirement pension to be regarded as ‘deferred remuneration’, the employee concerned could claim the outstanding salaries resulting from the employment relationship within a period of five years from the termination of that relationship, without being obliged to bring legal proceedings while that relationship was still ongoing.
- 33 In those circumstances, the Tribunale di Napoli (District Court, Naples) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:
- ‘(1) Do the rights referred to in Article 8 of [Directive 91/533], the protection of which must be ensured by a Member State, consist only of the right to receive the document pursuant to which a worker is recruited referred to in Article 2 of that directive, or also of the rights which must be set out in the document itself and, in particular, the right to remuneration?
- (2) If the Court of Justice answers the first question in the affirmative, does the pension which the applicant will receive, in the context described above, which is dependent on contributions paid

in proportion to the remuneration received and the years of affiliation to the compulsory general insurance scheme, constitute, for members in the private sector, remuneration, within the meaning of Article 2 of [Directive 91/533], that is deferred?

- (3) If the answer to the first two questions is in the affirmative, does the worker's right to the payment of contributions, which has a decisive influence on the right to and the amount of the pension benefit, also come within the scope of protection provided for in Article 8 of [Directive 91/533]?
- (4) If the answer to the questions above is in the affirmative, does Article 8 of [Directive 91/533] preclude a worker from being required, in the course of the employment relationship, to bring proceedings against the employer, in addition to the INPS, to seek payment of contributions, in order to prevent his or her claims from becoming time-barred, where those claims depend exclusively on the willingness of the INPS to join the proceedings and to request payment of the amount owed, unlike in the case of ordinary remuneration, even where the worker does not have sufficient protection against unfair dismissal, thereby risking dismissal or non-continuation of the employment relationship protected by [Directive 2008/104]?
- (5) If the answer to the questions above is in the affirmative, what instruments are available to the referring court and, in the present case, can the harmonisation of the rules on limitation periods for contributions and remuneration be regarded as a measure that is sufficient to discharge the obligations laid down in Article 8 of [Directive 91/533]?

Admissibility of the request for a preliminary ruling

- 34 Trenitalia and the INPS contend that the request for a preliminary ruling is inadmissible.
- 35 Trenitalia is of the view that the dispute in the main proceedings constitutes a purely internal situation and has no connection with EU law. In particular, it argues that the questions referred do not come within the scope of Directive 91/533, as the directive makes no reference to social security benefits or to actions which may be brought to obtain the payment of social security contributions which have not been paid by the employer. An interpretation of Article 8 of that directive which extends the protections provided for in the field of labour law to the social security system cannot be based on the provisions of Directive 91/533 and would go beyond the objectives pursued by that directive.
- 36 The INPS, for its part, considers that the request for a preliminary ruling is inadmissible for failure to state reasons, as the grounds of that request do not appear to include any argument in support of an interpretation of Articles 2 and 8 of Directive 91/533 capable of achieving the result expected by the referring court. Furthermore, it asserts that the questions referred are irrelevant and, in any event, propose that Articles 2 and 8 be interpreted in a manner which goes beyond the scope of that directive.
- 37 The Court notes that the pleas of inadmissibility raised by Trenitalia and the INPS are based, in essence, on arguments relating to the interpretation of the scope of Directive 91/533 and of Articles 2 and 8 thereof.
- 38 Accordingly, those arguments relate to the substance of the questions referred and not to their admissibility, with the result that those arguments should be examined in the context of the examination of the substance of those questions (see, by analogy, judgment of 12 March 2026, *Harry et Associés*, C-527/24, EU:C:2026:192, paragraph 33 and the case-law cited).
- 39 It follows that the request for a preliminary ruling is admissible.

Consideration of the questions referred

The first question

- 40 By its first question, the referring court asks, in essence, whether Article 8(1) of Directive 91/533 is to be interpreted as meaning that the concept of ‘rights’, for the purposes of that provision, covers only rights conferred by the directive, such as the right of the employee to receive one of the documents listed in Article 3 thereof, or also rights conferred by the contract or employment relationship of which the employer must, by means of such a document, inform the employee under Article 2 of that directive.
- 41 In that regard, it should be borne in mind, first of all, that Article 2 of Directive 91/533 provides, in paragraph 1 thereof, that an employer is obliged to notify an employee to whom that directive applies of the essential aspects of the contract or employment relationship. The information referred to in paragraph 1 of that article, in accordance with paragraph 2 thereof, is to cover at least the elements listed in the latter provision.
- 42 Next, Article 3 of Directive 91/533 lists the types of documents by means of which the employer must provide the employee with information on the matters referred to in Article 2(2) of that directive, as well as the time limits for providing that information.
- 43 Lastly, it should be borne in mind that, in accordance with Article 8(1) of Directive 91/533, Member States are to introduce into their national legal systems such measures as are necessary to enable all employees who consider themselves wronged by failure to comply with the obligations arising from that directive to pursue their claims by judicial process after possible recourse to other competent authorities.
- 44 In accordance with settled case-law, for the purpose of interpreting a provision of EU law, it is necessary to consider not only its wording but also the context in which it occurs and the objectives pursued by the rules of which it is part (see judgments of 17 November 1983, *Merck*, 292/82, EU:C:1983:335, paragraph 12, and of 4 June 2026, *Landkreis Schweinfurt*, C-621/24, EU:C:2026:450, paragraph 56).
- 45 In the first place, it follows from the wording of Article 8(1) of Directive 91/533 that Member States must ensure that ‘all employees who consider themselves wronged by failure to comply with the obligations arising from [that] directive’ are able to ‘pursue their claims by judicial process’.
- 46 An overall reading of the wording of that provision thus seems to indicate that Member States must ensure that employees are able to assert, by judicial process, not the rights conferred by their contract or employment relationship, but the rights which they derive from the obligations to provide information imposed on employers by the directive.
- 47 In the second place, that interpretation is confirmed by the context in which the provision occurs.
- 48 In that connection, as regards the question of which ‘rights’ are conferred by Directive 91/533, for the purposes of Article 8(1) thereof, it should be borne in mind that that directive establishes, as is apparent from its very title, ‘an employer’s obligation to inform employees of the conditions applicable to the contract or employment relationship’, an obligation which the seventh recital of the directive classifies as a ‘general requirement’.
- 49 That ‘general requirement’ takes the form of a number of specific obligations incumbent on the employer, which, as a result, confer as many specific rights on the employee. More specifically, that is the case as regards:
- the obligation to provide information on the essential aspects of the contract or employment relationship, laid down in Article 2 of Directive 91/533;
 - the obligation to provide that information by means of one of the documents and within the time limits referred to in Article 3 of that directive;
 - the obligation to communicate to expatriate employees, before their departure, other information, in addition to that relating to those essential aspects, connected with their secondment, as follows from Article 4 of that directive;

- the obligation to notify employees of any changes to those essential aspects and that additional information within the time limit and in the manner set out in Article 5 of that directive.

- 50 Consequently, the ‘rights’ arising from Directive 91/533, for the purposes of Article 8(1) thereof, must be understood as being the rights which employees derive from the obligations imposed on employers by the articles of that directive referred to in the preceding paragraph; the subject matter of those rights, therefore, consists in nothing other than the information which is to be provided to those employees in respect of certain aspects of their contract or employment relationship and the way in which that information is to be provided.
- 51 Conversely, Article 8(1) of that directive does not cover the rights conferred by the contract or the employment relationship which may be referred to in Article 2(2) thereof.
- 52 It is true that Article 2(2) of Directive 91/533 contains a non-exhaustive list of the essential aspects of the contract or employment relationship and that in certain cases those aspects constitute rights of which the employee has the right to be informed.
- 53 However, it must be stated that, in that directive, those essential aspects are referred to only as constituting information which is to be brought to the attention of employees.
- 54 By contrast, the legal framework governing the rights guaranteed to employees which are among those essential aspects is laid down not by that directive, but by other instruments of EU or national law. As is noted by the European Commission in its written observations, this is confirmed by Article 2(3) of Directive 91/533, from which it can be seen that some of the aspects referred to in Article 2(2) of that directive are governed by such other instruments, including collective agreements.
- 55 It follows that any infringement of those rights guaranteed to employees is not, in itself, relevant for the purpose of assessing compliance with that directive, given that, in respect of those rights, the directive imposes only an obligation to provide information.
- 56 In the third and last place, the interpretation set out in paragraph 46 of the present judgment is also supported by the objective pursued by that directive, which, as is apparent from the second and seventh recitals thereof, is to subject employment relationships to formal requirements in order to provide employees with improved protection against possible infringements of their rights and to create greater transparency on the labour market by informing those employees of the essential elements of their contract or employment relationship.
- 57 In accordance with that objective, Directive 91/533 is thus aimed at establishing a formal obligation of information and transparency.
- 58 Admittedly, the pursuit of that objective in turn serves to protect employees against any potential infringement of their rights guaranteed by other instruments of EU or national law, including collective agreements, by making them aware of their rights and obligations vis-à-vis their employer.
- 59 However, as can also be seen from paragraph 54 of the present judgment, Directive 91/533 does not, in itself, cover the obligation to ensure that those rights are safeguarded.
- 60 In the light of all the foregoing considerations, the answer to the first question is that Article 8(1) of Directive 91/533 must be interpreted as meaning that the concept of ‘rights’, for the purposes of that provision, covers only rights conferred by the directive, such as the right of the employee to receive one of the documents listed in Article 3 thereof, with the result that that concept does not include rights conferred by the contract or employment relationship of which the employer must, by means of such a document, inform the employee under Article 2 of that directive.

The second to fifth questions

- 61 In view of the answer given to the first question, there is no need to answer the second to fifth questions.

Costs

- 62 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

Article 8(1) of Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship

must be interpreted as meaning that the concept of 'rights', for the purposes of that provision, covers only rights conferred by the directive, such as the right of the employee to receive one of the documents listed in Article 3 thereof, with the result that that concept does not include rights conferred by the contract or employment relationship of which the employer must, by means of such a document, inform the employee under Article 2 of that directive.

[Signatures]

* Language of the case: Italian.