

CJEU ruling in *FNV v. Van Den Bosch*: follow-up in Dutch courts

As previously reported on [conflictoflaws](#) (inter alia), on 1 December 2020, the Grand Chamber of the CJEU ruled in the *FNV v. Van Den Bosch* case. It ruled that the highly mobile labour activities in the road transport sector fall within the scope of the Posting of Workers Directive (C-815/18; see also the conclusion of AG Bobek). As regards to the specific circumstances to which the directive applies, the CJEU sees merit in the principle of the ‘sufficient connection’. To establish sufficient connection between the place of performance of the work and a Member State’s territory, ‘an overall assessment of all the factors that characterise the activity of the worker concerned is carried out.’ (*FNV v. Van Den Bosch*, at [43]).

Following the preliminary ruling, on 14 October 2022, the Supreme Court of the Netherlands has ruled in cassation on the claims, which had led to the questions for preliminary rulings (see also the conclusion of AG Drijber). The Dutch Supreme Court referred the assessment of the ‘sufficient connection’ on the facts of the case back to the lower courts.

Although the Dutch Supreme Court’s ruling is not surprising, the eventual application of the CJEU’s preliminary ruling to the facts of this dispute (and its further follow-up in lower courts) might still provide food for thought for companies in the transnational transport sector, which use similar business models.