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Background

In its 7 March 2018 ruling on the Sisy case, the Brussels Labour Court claimed social security contributions are benefits awarded directly to employees of a third party. Because these benefits are considered reward for work completed under an employment contract, social security contributions are due, even without any employer intervention, or any cost at charge of the employer. In their ruling on 20 May 2019, the Belgian Supreme Court rejected the appeal and confirmed the Belgian social security authorities’ position.

By confirming the Labour Court’s view that benefits granted to third party employees are subject to social security contributions, as these are considered as reward for work completed under their employment contract with said third party, it seems inevitable that grants by parent companies are also affected by the ruling. This case has strengthened the view of the authorities and means that it may be more difficult for companies to successfully take the position that no social security is due on equity income. The case also affects commission payments on any sales transactions by third party employees.

Impact

This decision will also have a major impact on the social security landscape for all equity incentives provided by foreign parent companies to their Belgian based employees.

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