** France, Cour de cassation, Chambre criminelle, 11 mars 2014, 12-81461**

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Sens de l'arrêt : [*Rejet*](http://www.juricaf.org/recherche/sens_arret%3A%22Rejet%22)
Type d'affaire : [*Criminelle*](http://www.juricaf.org/recherche/type_affaire%3A%22Criminelle%22)

**Numérotation :**

Numéro d'arrêt : 12-81461
Numéro NOR : JURITEXT000028728616 
Numéro d'affaire : *12-81461*
Numéro de décision : *C1401079*
Identifiant URN:LEX : urn:lex;fr;cour.cassation;arret;2014-03-11;12.81461 

**Analyses :**

[**TRAVAIL**](http://www.juricaf.org/recherche/analyses%3A%22TRAVAIL%22)**-**[**Travail dissimulé**](http://www.juricaf.org/recherche/analyses%3A%22TRAVAIL%2B-%2BTravail%2Bdissimule%22)**-**[**Dissimulation d'emploi salarié**](http://www.juricaf.org/recherche/analyses%3A%22TRAVAIL%2B-%2BTravail%2Bdissimule%2B-%2BDissimulation%2Bd%2Bemploi%2Bsalarie%22)**-**[**Applications diverses**](http://www.juricaf.org/recherche/analyses%3A%22TRAVAIL%2B-%2BTravail%2Bdissimule%2B-%2BDissimulation%2Bd%2Bemploi%2Bsalarie%2B-%2BApplications%2Bdiverses%22)**-**[**Omission de déclaration de salariés aux organismes de protection sociale**](http://www.juricaf.org/recherche/analyses%3A%22TRAVAIL%2B-%2BTravail%2Bdissimule%2B-%2BDissimulation%2Bd%2Bemploi%2Bsalarie%2B-%2BApplications%2Bdiverses%2B-%2BOmission%2Bde%2Bdeclaration%2Bde%2Bsalaries%2Baux%2Borganismes%2Bde%2Bprotection%2Bsociale%22)**-**[**Entreprises de transport aérien au titre de leurs bases d'exploitation situées sur le territoire français**](http://www.juricaf.org/recherche/analyses%3A%22TRAVAIL%2B-%2BTravail%2Bdissimule%2B-%2BDissimulation%2Bd%2Bemploi%2Bsalarie%2B-%2BApplications%2Bdiverses%2B-%2BOmission%2Bde%2Bdeclaration%2Bde%2Bsalaries%2Baux%2Borganismes%2Bde%2Bprotection%2Bsociale%2B-%2BEntreprises%2Bde%2Btransport%2Baerien%2Bau%2Btitre%2Bde%2Bleurs%2Bbases%2Bd%2Bexploitation%2Bsituees%2Bsur%2Ble%2Bterritoire%2Bfrancais%22)**-**[**Travailleurs détachés (non)**](http://www.juricaf.org/recherche/analyses%3A%22TRAVAIL%2B-%2BTravail%2Bdissimule%2B-%2BDissimulation%2Bd%2Bemploi%2Bsalarie%2B-%2BApplications%2Bdiverses%2B-%2BOmission%2Bde%2Bdeclaration%2Bde%2Bsalaries%2Baux%2Borganismes%2Bde%2Bprotection%2Bsociale%2B-%2BEntreprises%2Bde%2Btransport%2Baerien%2Bau%2Btitre%2Bde%2Bleurs%2Bbases%2Bd%2Bexploitation%2Bsituees%2Bsur%2Ble%2Bterritoire%2Bfrancais%2B-%2BTravailleurs%2Bdetaches%2B%28non%29%22)**.**

[**UNION EUROPEENNE**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%22)**-**[**Travail**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%22)**-**[**Règlement (CEE) n° 1408/71 du 14 juin 1971**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%22)**-**[**Article 14**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%22)**-**[**Travailleurs détachés**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%2B-%2BTravailleurs%2Bdetaches%22)**-**[**Activité salariée exercée en France**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%2B-%2BTravailleurs%2Bdetaches%2B-%2BActivite%2Bsalariee%2Bexercee%2Ben%2BFrance%22)**-**[**Certificat d'affiliation**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%2B-%2BTravailleurs%2Bdetaches%2B-%2BActivite%2Bsalariee%2Bexercee%2Ben%2BFrance%2B-%2BCertificat%2Bd%2Baffiliation%22)**-**[**Délivrance par les autorités étrangères**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%2B-%2BTravailleurs%2Bdetaches%2B-%2BActivite%2Bsalariee%2Bexercee%2Ben%2BFrance%2B-%2BCertificat%2Bd%2Baffiliation%2B-%2BDelivrance%2Bpar%2Bles%2Bautorites%2Betrangeres%22)**-**[**Conditions**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%2B-%2BTravailleurs%2Bdetaches%2B-%2BActivite%2Bsalariee%2Bexercee%2Ben%2BFrance%2B-%2BCertificat%2Bd%2Baffiliation%2B-%2BDelivrance%2Bpar%2Bles%2Bautorites%2Betrangeres%2B-%2BConditions%22)**-**[**Exclusion**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%2B-%2BTravailleurs%2Bdetaches%2B-%2BActivite%2Bsalariee%2Bexercee%2Ben%2BFrance%2B-%2BCertificat%2Bd%2Baffiliation%2B-%2BDelivrance%2Bpar%2Bles%2Bautorites%2Betrangeres%2B-%2BConditions%2B-%2BExclusion%22)**-**[**Activités relevant du droit d'établissement**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%2B-%2BTravailleurs%2Bdetaches%2B-%2BActivite%2Bsalariee%2Bexercee%2Ben%2BFrance%2B-%2BCertificat%2Bd%2Baffiliation%2B-%2BDelivrance%2Bpar%2Bles%2Bautorites%2Betrangeres%2B-%2BConditions%2B-%2BExclusion%2B-%2BActivites%2Brelevant%2Bdu%2Bdroit%2Bd%2Betablissement%22)**-**[**Cas**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%2B-%2BTravailleurs%2Bdetaches%2B-%2BActivite%2Bsalariee%2Bexercee%2Ben%2BFrance%2B-%2BCertificat%2Bd%2Baffiliation%2B-%2BDelivrance%2Bpar%2Bles%2Bautorites%2Betrangeres%2B-%2BConditions%2B-%2BExclusion%2B-%2BActivites%2Brelevant%2Bdu%2Bdroit%2Bd%2Betablissement%2B-%2BCas%22)**-**[**Activité entièrement orientée vers le territoire national ou réalisée avec des infrastructures situées sur le territoire national et exercée de façon habituelle**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%2B-%2BTravailleurs%2Bdetaches%2B-%2BActivite%2Bsalariee%2Bexercee%2Ben%2BFrance%2B-%2BCertificat%2Bd%2Baffiliation%2B-%2BDelivrance%2Bpar%2Bles%2Bautorites%2Betrangeres%2B-%2BConditions%2B-%2BExclusion%2B-%2BActivites%2Brelevant%2Bdu%2Bdroit%2Bd%2Betablissement%2B-%2BCas%2B-%2BActivite%2Bentierement%2Borientee%2Bvers%2Ble%2Bterritoire%2Bnational%2Bou%2Brealisee%2Bavec%2Bdes%2Binfrastructures%2Bsituees%2Bsur%2Ble%2Bterritoire%2Bnational%2Bet%2Bexercee%2Bde%2Bfacon%2Bhabituelle%22)**-**[**Entreprises de transport aérien au titre de leurs bases d'exploitation situées sur le territoire français UNION EUROPEENNE**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%2B-%2BTravailleurs%2Bdetaches%2B-%2BActivite%2Bsalariee%2Bexercee%2Ben%2BFrance%2B-%2BCertificat%2Bd%2Baffiliation%2B-%2BDelivrance%2Bpar%2Bles%2Bautorites%2Betrangeres%2B-%2BConditions%2B-%2BExclusion%2B-%2BActivites%2Brelevant%2Bdu%2Bdroit%2Bd%2Betablissement%2B-%2BCas%2B-%2BActivite%2Bentierement%2Borientee%2Bvers%2Ble%2Bterritoire%2Bnational%2Bou%2Brealisee%2Bavec%2Bdes%2Binfrastructures%2Bsituees%2Bsur%2Ble%2Bterritoire%2Bnational%2Bet%2Bexercee%2Bde%2Bfacon%2Bhabituelle%2B-%2BEntreprises%2Bde%2Btransport%2Baerien%2Bau%2Btitre%2Bde%2Bleurs%2Bbases%2Bd%2Bexploitation%2Bsituees%2Bsur%2Ble%2Bterritoire%2Bfrancais%2BUNION%2BEUROPEENNE%22)**-**[**Cour de justice de l'Union européenne**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%2B-%2BTravailleurs%2Bdetaches%2B-%2BActivite%2Bsalariee%2Bexercee%2Ben%2BFrance%2B-%2BCertificat%2Bd%2Baffiliation%2B-%2BDelivrance%2Bpar%2Bles%2Bautorites%2Betrangeres%2B-%2BConditions%2B-%2BExclusion%2B-%2BActivites%2Brelevant%2Bdu%2Bdroit%2Bd%2Betablissement%2B-%2BCas%2B-%2BActivite%2Bentierement%2Borientee%2Bvers%2Ble%2Bterritoire%2Bnational%2Bou%2Brealisee%2Bavec%2Bdes%2Binfrastructures%2Bsituees%2Bsur%2Ble%2Bterritoire%2Bnational%2Bet%2Bexercee%2Bde%2Bfacon%2Bhabituelle%2B-%2BEntreprises%2Bde%2Btransport%2Baerien%2Bau%2Btitre%2Bde%2Bleurs%2Bbases%2Bd%2Bexploitation%2Bsituees%2Bsur%2Ble%2Bterritoire%2Bfrancais%2BUNION%2BEUROPEENNE%2B-%2BCour%2Bde%2Bjustice%2Bde%2Bl%2BUnion%2Beuropeenne%22)**-**[**Question préjudicielle**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%2B-%2BTravailleurs%2Bdetaches%2B-%2BActivite%2Bsalariee%2Bexercee%2Ben%2BFrance%2B-%2BCertificat%2Bd%2Baffiliation%2B-%2BDelivrance%2Bpar%2Bles%2Bautorites%2Betrangeres%2B-%2BConditions%2B-%2BExclusion%2B-%2BActivites%2Brelevant%2Bdu%2Bdroit%2Bd%2Betablissement%2B-%2BCas%2B-%2BActivite%2Bentierement%2Borientee%2Bvers%2Ble%2Bterritoire%2Bnational%2Bou%2Brealisee%2Bavec%2Bdes%2Binfrastructures%2Bsituees%2Bsur%2Ble%2Bterritoire%2Bnational%2Bet%2Bexercee%2Bde%2Bfacon%2Bhabituelle%2B-%2BEntreprises%2Bde%2Btransport%2Baerien%2Bau%2Btitre%2Bde%2Bleurs%2Bbases%2Bd%2Bexploitation%2Bsituees%2Bsur%2Ble%2Bterritoire%2Bfrancais%2BUNION%2BEUROPEENNE%2B-%2BCour%2Bde%2Bjustice%2Bde%2Bl%2BUnion%2Beuropeenne%2B-%2BQuestion%2Bprejudicielle%22)**-**[**Interprétation des actes pris par les institutions de l'Union**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%2B-%2BTravailleurs%2Bdetaches%2B-%2BActivite%2Bsalariee%2Bexercee%2Ben%2BFrance%2B-%2BCertificat%2Bd%2Baffiliation%2B-%2BDelivrance%2Bpar%2Bles%2Bautorites%2Betrangeres%2B-%2BConditions%2B-%2BExclusion%2B-%2BActivites%2Brelevant%2Bdu%2Bdroit%2Bd%2Betablissement%2B-%2BCas%2B-%2BActivite%2Bentierement%2Borientee%2Bvers%2Ble%2Bterritoire%2Bnational%2Bou%2Brealisee%2Bavec%2Bdes%2Binfrastructures%2Bsituees%2Bsur%2Ble%2Bterritoire%2Bnational%2Bet%2Bexercee%2Bde%2Bfacon%2Bhabituelle%2B-%2BEntreprises%2Bde%2Btransport%2Baerien%2Bau%2Btitre%2Bde%2Bleurs%2Bbases%2Bd%2Bexploitation%2Bsituees%2Bsur%2Ble%2Bterritoire%2Bfrancais%2BUNION%2BEUROPEENNE%2B-%2BCour%2Bde%2Bjustice%2Bde%2Bl%2BUnion%2Beuropeenne%2B-%2BQuestion%2Bprejudicielle%2B-%2BInterpretation%2Bdes%2Bactes%2Bpris%2Bpar%2Bles%2Binstitutions%2Bde%2Bl%2BUnion%22)**-**[**Statut des travailleurs détachés**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%2B-%2BTravailleurs%2Bdetaches%2B-%2BActivite%2Bsalariee%2Bexercee%2Ben%2BFrance%2B-%2BCertificat%2Bd%2Baffiliation%2B-%2BDelivrance%2Bpar%2Bles%2Bautorites%2Betrangeres%2B-%2BConditions%2B-%2BExclusion%2B-%2BActivites%2Brelevant%2Bdu%2Bdroit%2Bd%2Betablissement%2B-%2BCas%2B-%2BActivite%2Bentierement%2Borientee%2Bvers%2Ble%2Bterritoire%2Bnational%2Bou%2Brealisee%2Bavec%2Bdes%2Binfrastructures%2Bsituees%2Bsur%2Ble%2Bterritoire%2Bnational%2Bet%2Bexercee%2Bde%2Bfacon%2Bhabituelle%2B-%2BEntreprises%2Bde%2Btransport%2Baerien%2Bau%2Btitre%2Bde%2Bleurs%2Bbases%2Bd%2Bexploitation%2Bsituees%2Bsur%2Ble%2Bterritoire%2Bfrancais%2BUNION%2BEUROPEENNE%2B-%2BCour%2Bde%2Bjustice%2Bde%2Bl%2BUnion%2Beuropeenne%2B-%2BQuestion%2Bprejudicielle%2B-%2BInterpretation%2Bdes%2Bactes%2Bpris%2Bpar%2Bles%2Binstitutions%2Bde%2Bl%2BUnion%2B-%2BStatut%2Bdes%2Btravailleurs%2Bdetaches%22)**-**[**Disposition européennes précises**](http://www.juricaf.org/recherche/analyses%3A%22UNION%2BEUROPEENNE%2B-%2BTravail%2B-%2BReglement%2B%28CEE%29%2Bn%C2%B0%2B1408%2B71%2Bdu%2B14%2Bjuin%2B1971%2B-%2BArticle%2B14%2B-%2BTravailleurs%2Bdetaches%2B-%2BActivite%2Bsalariee%2Bexercee%2Ben%2BFrance%2B-%2BCertificat%2Bd%2Baffiliation%2B-%2BDelivrance%2Bpar%2Bles%2Bautorites%2Betrangeres%2B-%2BConditions%2B-%2BExclusion%2B-%2BActivites%2Brelevant%2Bdu%2Bdroit%2Bd%2Betablissement%2B-%2BCas%2B-%2BActivite%2Bentierement%2Borientee%2Bvers%2Ble%2Bterritoire%2Bnational%2Bou%2Brealisee%2Bavec%2Bdes%2Binfrastructures%2Bsituees%2Bsur%2Ble%2Bterritoire%2Bnational%2Bet%2Bexercee%2Bde%2Bfacon%2Bhabituelle%2B-%2BEntreprises%2Bde%2Btransport%2Baerien%2Bau%2Btitre%2Bde%2Bleurs%2Bbases%2Bd%2Bexploitation%2Bsituees%2Bsur%2Ble%2Bterritoire%2Bfrancais%2BUNION%2BEUROPEENNE%2B-%2BCour%2Bde%2Bjustice%2Bde%2Bl%2BUnion%2Beuropeenne%2B-%2BQuestion%2Bprejudicielle%2B-%2BInterpretation%2Bdes%2Bactes%2Bpris%2Bpar%2Bles%2Binstitutions%2Bde%2Bl%2BUnion%2B-%2BStatut%2Bdes%2Btravailleurs%2Bdetaches%2B-%2BDisposition%2Beuropeennes%2Bprecises%22)**.**

Doit être rejeté, sans qu'il y ait lieu de poser une question préjudicielle à la Cour de justice de l'Union européenne, le pourvoi formé par une société étrangère de transports aériens condamnée pour avoir omis de déclarer aux organismes de protection sociale les salariés, par elle employés sur le sol français, qui étaient immatriculés au régime de protection sociale espagnol et présentés comme des travailleurs détachés, dès lors qu'en l'absence d'un détachement de salariés entrant dans les prévisions de l'article 14, § 1, a du Règlement (CEE) n° 1408/71, en vigueur à la date des faits poursuivis, la société, dont l'activité en France était exercée dans le cadre d'une base d'exploitation telle que définie par l'article R. 330-2-1 du code de l'aviation civile, sous la direction d'un cadre dirigeant au sens de l'article L. 3111-2 du code du travail et relevait du droit d'établissement au sens des dispositions de l'article L. 1262-3 du même code et de la jurisprudence de la Cour de justice de l'union européenne, ne pouvait se prévaloir des certificats délivrés par l'autorité étrangère en cas de détachement de travailleurs au sein de l'Union européenne, dits formulaires E 101, et que se trouvait caractérisée à son encontre en tous ses éléments constitutifs l'infraction de travail dissimulé prévue par les dispositions, d'ordre public, de l'article L. 3221-3, 2°, de ce code

**Références :**

Sur le défaut de statut de travailleurs détachés prévues par l'article 14, § 1, a du Règlement (CEE) n° 1408/71 du 14 juin 1971 des salariés d'entreprises de transport aérien au titre de leurs bases d'exploitation situées sur le territoire français, dans le même sens que :Crim., 11 mars 2014, [pourvoi n° 11-88420](http://www.juricaf.org/recherche/num_arret%3A11-88420), Bull. crim. 2014, n° 74(cassation)