

Questions referred

The Court of Justice is asked to give a preliminary ruling under Article 234 EC as to whether Articles 17, 39 and 42 EC, and the relevant provisions of Regulation No 1408/71, must be interpreted as meaning that the principle that all insurance periods must be aggregated for the purposes of entitlement to the right to benefits, and of the acquisition and maintenance of that right — a principle implemented through the adoption, by the Council, of Regulation No 1408/71 — applies in all cases where the aggregation and pro rata mechanism must be used for the purposes of recognising the right to a given benefit, with the result that account must be taken to that end both of the insurance periods completed under the legislation of each Member State, and of those completed under the social insurance scheme applicable to employees of the Community institutions.

Reference for a preliminary ruling from the Tribunale Amministrativo per la Sardegna (Italy), lodged on 27 July 2009 — Telecom Italia SpA v Regione autonoma della Sardegna

(Case C-290/09)

(2009/C 233/16)

Language of the case: Italian

Referring court

Tribunale Amministrativo per la Sardegna

Parties to the main proceedings

Claimant: Telecom Italia SpA

Defendant: Regione autonoma della Sardegna

Questions referred

1. Must the provisions of Directive 2004/18/EC⁽¹⁾ on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts that are referred to in section 10 [of the order for reference] be interpreted as precluding a temporary grouping of undertakings, the members of which include a State agency of the kind described in section 12 [of the order for reference], from taking part in a tendering procedure for the award of a contract for a service such as the documentation, dissemination and implementation of the 'Homogeneous System of Visual Identity of the Cultural Sites and Institutions: Cultural Heritage of Sardinia', the subject of the tendering procedure advertised by the Sardinia Region?

2. Are the provisions of Italian law contained in Article 3(22) and (19) of the Public Contracts Code, enacted by Legislative Decree No 163/2006 (which provide, respectively, that 'the term "economic operator" shall include a contractor, supplier, service provider or a group or consortium of these' and 'the terms "contractor", "supplier" and "service provider" shall mean any natural or legal person, or body without legal personality, including a European Economic Interest Group (EEIG) formed pursuant to Legislative Decree No 240 of 23 July 1991, which "offers on the market", respectively, the execution of works or a work, the supply of products or the provision of services'), and in Article 34 of that Public Contracts Code (which lists the entities allowed to participate in public procurement procedures) contrary to Directive 2004/18/EC if interpreted as restricting participation in tendering procedures to professional providers of such services and as excluding public entities the primary objects of which are not-for-profit, such as research?

⁽¹⁾ OJ 2004 L 134, p. 114.

Reference for a preliminary ruling from the Commissione tributaria provinciale di Parma (Italy) lodged on 27 July 2009 — Isabella Calestani v Agenzia delle Entrate Ufficio di Parma

(Case C-292/09)

(2009/C 233/17)

Language of the case: Italian

Referring court

Commissione tributaria provinciale di Parma

Parties to the main proceedings

Applicant: Isabella Calestani

Defendant: Agenzia delle Entrate Ufficio di Parma

Question referred

Is Article 19(5) of Presidential Decree No 633/72 at variance with Community law and with the principle of the neutrality of VAT, and in particular has Sixth Directive 77/388/EEC of 17 May 1977 been incorrectly transposed in so far as domestic legislation does not provide that VAT is deductible on purchases made by taxable persons whose transactions are exempt?