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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Reference for a preliminary ruling from the Supreme Administrative Court (Nejvyšší správní soud) (Czech Republic) lodged on 24 May 2012 — JS v Česká správa sociálního zabezpečení

(Case C-253/12)

(2012/C 273/02)

*Language of the case: Czech***Referring court**

Supreme Administrative Court (Nejvyšší správní soud)

Parties to the main proceedings*Applicant:* JS*Defendant:* Česká správa sociálního zabezpečení (The Czech social security administration)**Questions referred**

1. Does Regulation (EEC) No 1408/71 of the Council on the application of social security schemes to employed persons and their families moving within the Community ⁽¹⁾ (Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems) ⁽²⁾ exclude from its scope *ratione personae* a citizen of the Czech Republic who, in circumstances such as those of the present case, before 1.1.1993 was subject to the legislation governing pensions insurance of a former State (the Czech and Slovak Federal Republics) and those periods, in accordance with Article 20 of the Agreement on social security concluded on 29.10.1992 between the Czech [Republic] and the Slovak Republic referred to in Annex III to Regulation (EEC) No 1408/71 of the Council (Annex II to Regulation (EC) No 883/2004 of the European Parliament and of the Council), are regarded as periods under the Slovak Republic and, under the national rules established by the Constitutional Court of the Czech Republic, simultaneously also as periods under the Czech Republic?

If the answer to question (1) is in the negative:

2. Does Article 18 of the Treaty on the Functioning of the European Union in conjunction with Article 4(2) of the Treaty on European Union and with Article 3(1) of Regulation (EEC) No 1408/71 of the Council (or Article 4 of Regulation (EC) No 883/2004 of the European Parliament and of the Council) prevent the authorities in the Czech Republic, in circumstances such as those of the present case, from offering preferential treatment (a supplement to old age benefit where the amount of that benefit granted under Article 20 of the Agreement on social security concluded on 29.10.1992 between the Czech [Republic] and the Slovak Republic and under Regulation (EEC) No 1408/71 of the Council (Regulation No 883/2004) is lower than the benefit which would have been received if the retirement pension had been calculated according to the legislation of the Czech Republic) only to citizens of the Czech Republic, where the fundamental right to security in old age interpreted by the Constitutional Court of the Czech Republic specifically in relation to periods of pension benefit acquired in the former CSFR, and perceived as a part of the national identity, leads to that treatment, and where that treatment is not such as to interfere with the right of freedom of movement for workers as a basic right of the Union, in the situation where offering similar treatment to all other citizens of Member States of the EU who also acquired similar periods of pension benefit in the former CSFR would lead to a significant threat to the financial stability of the Czech Republic's system of pensions insurance?

If the answer to question (2) is in the affirmative:

3. Does European Union law prevent the national court, which is the highest court in the State in the field of administrative law and against whose decision there is no right of appeal, from being, in accordance with national law, bound by the legal assessment of the Constitutional Court of the Czech Republic where that assessment seems not to be in accordance with Union law as interpreted by the Court of Justice of the European Union?

⁽¹⁾ OJ L 149, p. 2;

⁽²⁾ OJ L 166, p. 1;