

- 7) Do Article 6 TEU, Article 17(1) of the Charter of Fundamental Rights of the European Union and the case-law of the Court of Justice preclude legislation which divests a pension holder of his right to receive a pension, even though that pension has been established on the basis of contributions made over more than 30 years, where judges have made and continue to make separate pension contributions in respect of their university teaching activities?
- 8) Do Article 6 TEU, Article 2(2)(b) of Directive 2000/78 establishing a general framework for equal treatment in employment and occupation (which covers the equal treatment of persons regardless of race and ethnic origin)<sup>(1)</sup> and the case-law of the Court of Justice preclude the Constitutional Court of a Member State from delivering a judgment by which, in exercise of its jurisdiction to review the constitutionality of a law, it establishes that only persons appointed for a fixed term have the right to combine a pension with a salary, thereby denying that right to professional judges, who are barred from receiving their pension, established on the basis of personal contributions made over more than 30 years, because they have retained a position teaching law at university level?
- 9) Do Article 6 TEU and the case-law of the Court of Justice preclude legislation which *indefinitely* makes the payment of a judge's pension, established on the basis of contributions made over more than 30 years, conditional upon termination of university employment?
- 10) Do Article 6 TEU and the case-law of the Court of Justice preclude legislation which destroys the proper balance to be maintained between the protection of personal property, on the one hand, and general interest requirements, on the other, and which requires only one specific category of persons to lose their judicial pension by reason of the fact that they engage in university employment?

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<sup>(1)</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16).

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**Request for a preliminary ruling from the Curtea de Apel Bacău (România) lodged on 30 May 2014 —  
Județul Neamț v Ministerul Dezvoltării Regionale și Administrației Publice**

**(Case C-260/14)**

(2014/C 292/19)

*Language of the case: Romanian*

**Referring court**

Curtea de Apel Bacău

**Parties to the main proceedings**

*Applicant:* Județul Neamț

*Defendant:* Ministerul Dezvoltării Regionale și Administrației Publice

**Questions referred**

- 1) Does the failure of a contracting authority, the beneficiary of a Structural Fund grant, to comply with rules concerning the award of a public contract of an estimated value lower than the threshold provided for by Article 7(a) of Directive [2004/18/EEC]<sup>(1)</sup> in connection with the award of a contract for the performance of the action covered by the grant, constitute an 'irregularity' (in Romanian: 'abatere') within the meaning of Article 1 of Regulation (EC) No 2988/1995<sup>(2)</sup> or an 'irregularity' (in Romanian: 'neregularitate') within the meaning of Article [2](7) of Regulation (EC) No 1083/2006<sup>(3)</sup>?

- 2) In the event of an affirmative answer to the first question, it should be determined whether the second sentence of Article 98(2) of Regulation (EC) No 1083/2006 must be interpreted as meaning that financial corrections by Member States, if applied to co-financed expenditure under Structural Funds for failure to comply with rules concerning public contracts, are administrative measures within the meaning of Article 4 of Regulation (EC) No 2988/1995 or whether they are administrative penalties within the meaning of Article 5(c) of that regulation.
- 3) If the answer to the second question is to the effect that financial corrections by Member States are administrative penalties, it should be established whether the principle of retroactive application of the less severe penalty referred to in the second sentence of Article 2(2) of Regulation (EC) No 2988/1995 applies.
- 4) In circumstances in which financial corrections have been applied to co-financed expenditure under Structural Funds for failure to comply with rules on public contracts, does Article 2(2) of Regulation (EC) No 2988/1995 in conjunction with the second sentence of Article 98(2) of Regulation (EC) No 1083/2006, having regard also to the principles of legal certainty and protection of legitimate expectations, prevent a Member State from applying financial corrections governed by an internal legislative measure which entered into force at a time after that at which it is maintained that the alleged infringement of the rules on public contracts took place?

<sup>(1)</sup> Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004 L 134, p. 114).

<sup>(2)</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ 1995 L 312, p. 1).

<sup>(3)</sup> Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (OJ 2006 L 210, p. 25).

**Request for a preliminary ruling from the Curtea de Apel Bacău (Romania) lodged on 30 May 2014 —  
Județul Bacău v Ministerul Dezvoltării Regionale și Administrației Publice**

(Case C-261/14)

(2014/C 292/20)

*Language of the case: Romanian*

**Referring court**

Curtea de Apel Bacău

**Parties to the main proceedings**

*Applicant:* Județul Bacău

*Defendant:* Ministerul Dezvoltării Regionale și Administrației Publice

**Questions referred**

- 1) Must the second sentence of Article 98(2) of Regulation (EC) No 1083/2006 <sup>(1)</sup> interpreted as meaning that financial corrections by Member States, if applied to co-financed expenditure under Structural Funds for failure to comply with rules concerning public contracts, are administrative measures within the meaning of Article 4 of Regulation (EC) No 2988/1995 <sup>(2)</sup> or are they administrative penalties within the meaning of Article 5(c) of that regulation?