

Questions referred

1. Is it compatible with Article 45(2)(a) and (b) of Directive 2004/18/EC of 31 March 2004 ⁽¹⁾ to regard a debtor that has merely made a request to the competent judicial body to enter into an arrangement with creditors as being 'the subject of proceedings'?
2. Is it compatible with the abovementioned provision to regard a debtor's declaration that it is in a state of insolvency and wishes to submit a preliminary request (the features of which are described above) to enter into an arrangement with creditors as grounds for excluding that debtor from a public tendering procedure, thereby interpreting broadly the term 'the subject of proceedings' used in the provisions of Community law (Article 45 of the directive) and of national law (Article 38 of Legislative Decree No 163/2006), cited above?

⁽¹⁾ 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).

Request for a preliminary ruling from the Tribunal Administratif de Montreuil (France) lodged on 20 February 2018 — Sea Chefs Cruise Services GmbH v Ministre de l'Action et des Comptes publics

(Case C-133/18)

(2018/C 166/26)

Language of the case: French

Referring court

Tribunal Administratif de Montreuil

Parties to the main proceedings

Applicant: Sea Chefs Cruise Services GmbH

Defendant: Ministre de l'Action et des Comptes publics

Question referred

Must Article 20(2) of Council Directive 2008/9/EC of 12 February 2008 ⁽¹⁾ be interpreted as meaning that it creates a limitation rule which has the effect that a taxable person of a Member State which applies for a refund of value added tax from a Member State in which it is not established is not able to regularise its refund application before a tax court if it has not complied with the time limit for replying to a request for information made by the administration in accordance with the provisions of the first paragraph of that article, or, on the contrary, as meaning that that taxable person may, in the context of the right of appeal laid down in Article 23 of the directive, and having regard to the principles of neutrality and proportionality of VAT, regularise its application before the tax court?

⁽¹⁾ Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State (OJ 2008 L 44, p. 23).