

**Judgment of the Court (Third Chamber) of 21 October 2010** (reference for a preliminary ruling from the *Anotato Dikastirio tis Kipriakis Dimokratias* (Cyprus)) — *Simvoulio Apokhetefseon Lefkosias v Anatheoritiki Arkhi Prosforon*

(Case C-570/08) <sup>(1)</sup>

*(Public contracts — Directive 89/665/EEC — Article 2(8) — Body responsible for review procedures that is not judicial in character — Annulment of the contracting authority's decision to accept a tender — Possibility for the contracting authority to appeal against that annulment before a judicial body)*

(2010/C 346/12)

Language of the case: Greek

#### Referring court

Anotato Dikastirio tis Kipriakis Dimokratias

#### Parties to the main proceedings

*Applicant:* Simvoulio Apokhetefseon Lefkosias

*Defendant:* Anatheoritiki Arkhi Prosforon

#### Re:

Reference for a preliminary ruling — Anotato Dikastirio Kiprou (Cyprus) — Interpretation of Article 2(8) of Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ 1989 L 395, p. 33) — Right of a contracting authority to judicial review of decisions of a responsible body, within the meaning of that provision, which is not judicial in character

#### Operative part of the judgment

Article 2(8) of Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, as amended by Council Directive 92/50/EEC of 18 June 1992, must be interpreted as not requiring the Member States to provide, also for contracting authorities, a right to seek judicial review of the decisions of non-judicial bodies responsible for review procedures concerning the award of public contracts. However, that provision does not prevent the Member States from providing, in their legal systems, such a review procedure in favour of contracting authorities.

<sup>(1)</sup> OJ C 55, 7.3.2009.

**Judgment of the Court (Second Chamber) of 14 October 2010** (reference for a preliminary ruling from the *Bundesfinanzhof* (Germany)) — *Gudrun Schwemmer v Agentur für Arbeit Villingen-Schwenningen — Familienkasse*

(Case C-16/09) <sup>(1)</sup>

*(Social security — Regulations (EEC) Nos 1408/71 and 574/72 — Family benefits — 'Anti-overlap' rules — Article 76(2) of Regulation No 1408/71 — Article 10(1)(a) of Regulation No 574/72 — Children residing in a Member State with their mother who fulfils the conditions for drawing family benefits there, and the father of whom, working in Switzerland and fulfilling, at first sight, the conditions for drawing family benefits of the same type under Swiss legislation, refrains from applying for the grant of those benefits)*

(2010/C 346/13)

Language of the case: German

#### Referring court

Bundesfinanzhof

#### Parties to the main proceedings

*Applicant:* Gudrun Schwemmer

*Defendant:* Agentur für Arbeit Villingen-Schwenningen — Familienkasse

#### Re:

Reference for a preliminary ruling — Bundesfinanzhof — Interpretation of Article 76(2) of Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (OJ English Special Edition 1971 (II), p. 416), as amended, and of Article 10(1)(a) of Regulation (EEC) No 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community (OJ English Special Edition 1972 (I), p. 159), as amended — Determination of the State required to grant family benefits — Rules against overlapping — Children residing in one Member State with their mother, who satisfies the conditions governing entitlement to family allowances, and whose father, resident in Switzerland and satisfying the conditions governing receipt of similar family allowances under Swiss law, intentionally refrains from seeking payment of those allowances in order to adversely affect his divorced wife — Kindergeld

#### Operative part of the judgment

On a proper interpretation of Article 76 of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community, and Article 10 of Council Regulation (EEC) No. 574/72 laying down the procedure for implementing Regulation