Other party to the proceedings: Consejería de Educación de la Junta de Andalucía

By order of 8 December 2016, the Court of Justice (Ninth Chamber) dismissed the appeal and ordered Mr Rosa Rodríguez to bear his own costs.

Request for a preliminary ruling from the Sąd Apelacyjny w Gdańsku (Poland) lodged on 4 October 2016 — Stefan Czerwiński v Zakład Ubezpieczeń Społecznych Oddział w Gdańsku

(Case C-517/16)

(2017/C 022/06)

Language of the case: Polish

Referring court

Sąd Apelacyjny w Gdańsku

Parties to the main proceedings

Appellant: Stefan Czerwiński

Respondent: Zakład Ubezpieczeń Społecznych Oddział w Gdańsku

Questions referred

(1) Can the classification, made by a Member State in a declaration submitted pursuant to Article 9 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, of a particular benefit as concerning a specific branch of social security referred to in Article 3 of that regulation be subject to assessment by a national authority or court?

(2) Does a bridging pension arising under the Polish Law of 19 December 2008 on bridging pensions (*Dziennik Ustaw* of 2015, item 965, as subsequently amended) constitute an old-age benefit within the meaning of Article 3(1)(d) of Regulation No 883/2004?

(3) Does the exclusion — in relation to pre-retirement benefits — of the principle of aggregation of periods of insurance (Article 66 of Regulation No 883/2004 and recital 33 thereof) perform a protective function in the field of social security arising from Article 48(a) of the Treaty on the functioning of the European Union?

Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio (Italy) lodged on 12 October 2016 — Ma.t.i. Sud S.p.a. v Centostazioni S.p.a.

(Case C-523/16)

(2017/C 022/07)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio

Parties to the main proceedings

Applicant: Ma.t.i. Sud S.p.a.

Defendant: Centostazioni S.p.a.

Questions referred

1. Although the Member States have the ability to require payment for *soccorso istruttorio*, a procedure whereby the tenderer is given an opportunity to remedy shortcomings in its tendering documentation, which has the effect of remedying any irregularity, is Article 38(2a) of Legislative Decree No 163 of 2006, in the version in force at the time of the tendering procedure in question …, which makes provision for the payment of a 'pecuniary penalty', in so far as that penalty must be fixed by the contracting authority ('not less than 0.1 % and not more than 1 % of the value of the contract and in any event not more than EUR 50 000, the payment of which shall be guaranteed by the provisional security'), contrary to EU law in view of the excessively high amount and the predetermined nature of that penalty, which cannot be adjusted according to the specific situation to be regulated or the seriousness of the irregularity to be remedied?

2. Is Article 38(2a) of Legislative Decree No 163 of 2006 (in the version in force at the time indicated above) contrary to EU law, in that that requirement to pay for *soccorso istruttorio* may be regarded as contrary to the principle of opening up the market to competition as widely as possible, an aim which the *soccorso istruttorio* mechanism is intended to achieve, the facility which the contracting authority is required to offer in that regard therefore being a logical consequence of the duties imposed on that authority by law in the light of the public interest in achieving that aim?

Request for a preliminary ruling from the Najvyšší súd Slovenskej republiky (Slovakia) lodged on 20 October 2016 — Volkswagen AG v Finančné riaditeľstvo Slovenskej republiky

(Case C-533/16)

(2017/C 022/08)

Language of the case: Slovak

Referring court

Najvyšší súd Slovenskej republiky

Parties to the main proceedings

Applicant: Volkswagen AG

Defendant: Finančné riaditeľstvo Slovenskej republiky

Questions referred

1. Must Directive 2008/9 ([1]) and the right to a tax refund be interpreted to the effect that the cumulative satisfaction of two conditions is required to exercise the right to a VAT refund, namely:

   (i) the supply of the goods or service and

   (ii) the inclusion of VAT on the invoice by the supplier?

   In other words, is it possible for a taxable person who has not been charged VAT on an invoice to claim a tax refund?

2. Is it in accordance with the principle of proportionality or VAT fiscal neutrality for the time-limit for the tax refund to be calculated from a point at which not all the substantive law conditions required to exercise the right to a tax refund were satisfied?

3. Are Articles 167 and 178(a) of the VAT Directive, in the light of the principle of fiscal neutrality, to be interpreted to the effect that, in circumstances such as those of the present case, and assuming that the other substantive law and procedural law conditions required to claim a right to a tax deduction are satisfied, they preclude an approach by the tax authorities which refuses the taxable person the right, claimed within the time-limit under Directive 2008/9, to be refunded VAT which was charged to it by the supplier on the invoice and removed by the supplier before the expiry of the limitation period for relying upon the right under national law?