

The applicant claims that the Court should:

- declare that, by reducing Maltese old-age pensions by the amount of a United Kingdom civil servant pension under, as the case may be, The Principal Civil Service Pension Scheme, The National Health Service Pension Scheme or The Armed Forces Pension Scheme 1975 in respect of The Royal Air Force, the Republic of Malta has failed to fulfil its obligations under Article 46b of Regulation (EEC) n° 1408/71 ⁽¹⁾ of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Communities, as amended and consolidated by Regulation 118/97 of 2 December 1996 ⁽²⁾ and Article 54 of Regulation (EC) n° 883/2004 ⁽³⁾ of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems;
- order the Republic of Malta to pay the costs.

Pleas in law and main arguments

The Commission takes the view that Malta has failed to fulfil its obligations under Regulations 1408/71 and 883/2004 by deducting civil service pensions acquired under the legislation of another Member State from Maltese statutory old-age pension. The Commission is of the opinion that the United Kingdom civil service pension schemes are based on legislation and therefore fall within the scope of the said Regulations. The latter prohibit reducing a Maltese old-age pension by the amount of a United Kingdom public service pension. No social security convention concerning United Kingdom public service pensions has been concluded between the United Kingdom and Malta and no Annex to Regulation 1408/71 and 883/2004 contains an entry in respect of Malta, so that the conditions laid down by those Regulations to allow the continued applications of social security conventions are not fulfilled.

As the United Kingdom public service pension schemes do fall within the scope of these Regulations, Articles 46b (1) of Regulation 1408/71 and 54 (1) of Regulation 883/2004 forbid the application of a rule of national law on the prevention of overlapping of benefits such as Section 56 of the Maltese Social Security Act.

⁽¹⁾ OJ L 149, p. 2

⁽²⁾ OJ L 28, p. 1

⁽³⁾ OJ L 166, p. 1

**Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 6 March 2014 —
Beteiligungsgesellschaft Larentia + Minerva mbH & Co. KG v Finanzamt Nordenham**

(Case C-108/14)

(2014/C 159/16)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Beteiligungsgesellschaft Larentia + Minerva mbH & Co. KG

Defendant: Finanzamt Nordenham

Questions referred

1. Which calculation method is to be used to calculate a holding company's (pro rata) input tax deduction in respect of input supplies connected with the procurement of capital for the purchase of shares in subsidiary companies, if the holding company subsequently (as intended from the outset) provides various taxable services to those companies?

2. Does the provision on the consolidation of several persons into a single taxable person in the second subparagraph of Article 4(4) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes ⁽¹⁾ preclude national legislation under which (firstly) only a legal person, but not a partnership, can be integrated into the undertaking of another taxable person (a so-called ‘*Organträger*’ (controlling company)) and which (secondly) requires that this legal person ‘is integrated into the undertaking of the *Organträger*’ in financial, economic and organisational terms (in the sense of a relationship of control and subordination)?
3. If the previous question is answered in the affirmative: can a taxable person rely directly on the second subparagraph of Article 4(4) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes?

⁽¹⁾ OJ 1977 L 145, p. 1.

**Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 6 March 2014 —
Finanzamt Hamburg-Mitte v Marenave Schiffahrts AG**

(Case C-109/14)

(2014/C 159/17)

Language of the case: German

Referring court

Bundesfinanzhof

Parties to the main proceedings

Applicant: Finanzamt Hamburg-Mitte

Defendant: Marenave Schiffahrts AG

Questions referred

1. Which calculation method is to be used to calculate a holding company’s (pro rata) input tax deduction in respect of input supplies connected with the procurement of capital for the purchase of shares in subsidiary companies, if the holding company subsequently (as intended from the outset) provides various taxable services to those companies?
2. Does the provision on the consolidation of several persons into a single taxable person in the second subparagraph of Article 4(4) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes ⁽¹⁾ preclude national legislation under which (firstly) only a legal person, but not a partnership, can be integrated into the undertaking of another taxable person (a so-called ‘*Organträger*’ (controlling company)) and which (secondly) requires that this legal person ‘is integrated into the undertaking of the *Organträger*’ in financial, economic and organisational terms (in the sense of a relationship of control and subordination)?
3. If the previous question is answered in the affirmative: can a taxable person rely directly on the second subparagraph of Article 4(4) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes?

⁽¹⁾ OJ 1977 L 145, p. 1.

**Request for a preliminary ruling from the Amtsgericht Rüsselsheim (Germany) lodged on 12 March
2014 — Henricus Cornelis Maria Niessen and Others v Condor Flugdienst GmbH**

(Case C-119/14)

(2014/C 159/18)

Language of the case: German

Referring court

Amtsgericht Rüsselsheim