2. If the answer to the previous question is in the affirmative, and Law 20/2021 does not lay down other effective measures penalising the misuse of a succession of fixed-term contracts or the improper extension of a temporary contract, does the legislative omission consisting of the failure to provide for the conversion of a succession of fixed-term employment contracts or the improper extension of a temporary contract into a contract of indefinite duration infringe clause 5 of the Framework Agreement annexed to Directive 1999/70/EC, as the CJEU ruled in its order of 30 September 2020 in Case C-153/20? (1)

3. The Tribunal Supremo [Supreme Court, Spain] laid down in its judgments Nos 1425/2018 and 1426/2018 of 26 September 2018 the case-law, confirmed by its judgment No 1534/2021 of 20 December 2021, according to which the measure to be adopted in the event of misuse of temporary appointments may simply consist of keeping a public employee who is the victim of such misuse in a situation of job insecurity until such time as the employer administrative authority determines whether a structural need exists and holds the appropriate selection procedures — in which candidates who have not suffered such misuse of temporary appointments may also participate — to fill the posts concerned with permanent or career public employees. Does that case-law infringe clause 5 of the Framework Agreement annexed to Directive 1999/70/EC when the holding of an open selection procedure and successful participation in that selection procedure is not a punitive measure which satisfies the requirements laid down in the Directive, as the CJEU held in its order of 2 June 2021 in Case C-103/19?

4. If the answer to the previous question is in the affirmative and the case-law of the Tribunal Supremo [Supreme Court] does not lay down other effective measures for penalising the misuse of successive fixed-term contracts or the improper extension of a temporary contract, does the judicial omission consisting of the failure to provide for the conversion of a succession of fixed-term employment contracts or the improper extension of a temporary contract into a contract of indefinite duration infringe clause 5 of the Framework Agreement annexed to Directive 1999/70/EC, as the CJEU ruled in its order of 3 September 2020 in Case C-153/20?

5. If the legislation adopted to transpose clause 5 of the Framework Agreement annexed to Directive 1999/70/EC infringes Community law by failing to lay down any specific punitive measure which would ensure compliance with the objectives of that Community provision and bring to an end the job insecurity of public employees

In the light of that situation, must the national judicial authorities proceed to order the conversion of an abusive temporary relationship into a permanent relationship which differs from that of a career civil servant but which gives the victim of the abuse job security to prevent that abuse from going unpunished and the undermining of the objectives of clause 5 of the Framework Agreement, even though such a conversion is not provided for in the domestic legislation, provided that the temporary relationship concerned was preceded by a selection process that was open to the public and complied with the principles of equality, merit and ability?

(2) EU:C:2021:460.
(3) EU:C:2020:760.

Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) (Portugal) lodged on 24 May 2022 — Cofidis v Autoridade Tributária e Aduaneira
(Case C-340/22)
(2022/C 359/26)
Language of the case: Portuguese

Referring court
Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD)

Parties to the main proceedings
Applicant: Cofidis
Questions referred

1 Does Directive 2014/59/EU (1) of 15 May 2014 preclude the taxation in a Member State of branches of financial institutions resident in another Member State of the European Union, pursuant to legislation such as the Portuguese national rules governing the additional solidarity tax on the banking sector, which is levied on the adjusted liabilities and notional value of off-balance sheet derivative financial instruments and from which the revenue collected is not allocated to national financing arrangements for resolution measures or to the financing of the Single Resolution Fund?

2 Does the freedom of establishment enshrined in Article 49 TFEU preclude national legislation such as that laid down in the Portuguese national rules governing the additional solidarity tax on the banking sector, which permits the deduction from the liabilities, as determined and approved, certain liability items which are taken into account for the purposes of the calculation of tier 1 and tier 2 own funds, in accordance with the provisions of Part II of Regulation (EU) No 575/2013 (2) of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, taking into account the transitional provisions laid down in Part IX of that Regulation, which may be issued only by entities with legal personality, in other words, which may not be issued by branches of non-resident credit institutions?


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Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) (Portugal) lodged on 31 May 2022 — NM v Autoridade Tributária e Aduaneira

(Case C-349/22)

(2022/C 359/27)

Language of the case: Portuguese

Referring court

Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD)

Parties to the main proceedings

Applicant: NM

Defendant: Autoridade Tributária e Aduaneira

Question referred

Does Article 110 TFEU preclude a situation in which a rule of national law, such as Article 8(1)(d) of the CISV [(Código do Imposto Sobre Veículos; Code on Vehicle Tax)], which provides that private vehicles that satisfy certain environmental criteria are to be subject to tax on the release for consumption of motor vehicles [(imposto sobre veículos; ISV)] at a reduced rate of 25 %, remains in force and, under the version of the legislation in force from 1 January 2021 — which is more restrictive than the version previously in force — applies both to new Portuguese vehicles and to second-hand vehicles from other Member States of the European Union which are registered for the first time in Portugal from that date onwards, thereby providing the same tax treatment for those vehicles but giving rise to what could be considered unequal treatment between second-hand vehicles which have been in use for the same length of time and which satisfy the less demanding environmental criteria that previously applied but which do not satisfy the requirements in the new law, under which treatment is dependent on whether (a) they were originally sold and registered in Portugal before the date on which the new version of the law came into force, in which case they will have benefited from the reduced tax rate of 25 %, which is likely to be reflected in the purchase price of second-hand vehicles; or (b) they were registered in another Member State while the previous version of the law was in force and were released for consumption in Portugal after that date, in which case they are subject to tax at the rate of 100 %?