C/2024/3895

1.7.2024

Request for a preliminary ruling from the Najvyšší správny súd Slovenskej republiky (Slovakia) lodged on 13 March 2024 – A.En. Slovensko s.r.o. v Úrad pre vybrané hospodárske subjekty, Finančné riaditeľstvo Slovenskej republiky

(Case C-201/24, A.En. Slovensko)

(C/2024/3895)

Language of the case: Slovak

Referring court

Najvyšší správny súd Slovenskej republiky

Parties to the main proceedings

Appellant: A.En. Slovensko s.r.o.

Respondent: Úrad pre vybrané hospodárske subjekty, Finančné riaditeľstvo Slovenskej republiky

Questions referred

1. Should Article 4(1) in conjunction with Article 9 of Directive 2009/133/EC ([1]) be interpreted as precluding a provision of national law (zákon o osobitnom odvode (Law on the Special Levy)) under which a special levy is also charged on capital gains resulting from a transaction (transfer of assets) between companies established in Slovakia?

2. Can the effect of Article 4(1) in conjunction with Article 9 of Directive 2009/133/EC, namely the non-taxation of capital gains resulting from a transfer of assets, calculated as the difference between the real values of the assets and liabilities transferred and their values for tax purposes, also be invoked in the case of a national transaction, carried out between companies established in the same Member State, if the national provisions charge a payment, akin to taxation in its effects, on capital gains resulting from such a transaction (i.e. a special levy)?

([1]) Council Directive 2009/133/EC of 19 October 2009 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States.