Questions referred

1. Does Article 63 TFEU (ex Article 56 EC) preclude a national tax provision, such as that at issue in the main proceedings, which, for the purposes of the reimbursement of tax on income from capital, requires a company resident abroad which receives dividends from equity holdings and does not meet the minimum equity holding threshold laid down in Article 3 (1)(a) of Directive 90/435 ([1]) on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (as amended by Directive 2003/123) ([2]) to prove, by means of a certificate from the foreign tax administration, not only that neither that company nor a shareholder with a direct or indirect equity holding in that company can offset the tax on income from capital or deduct it as an operating cost or as work-related outgoings, but also that no offset, deduction or carry-forward has actually taken place either, in the case where such proof is not required, for the purposes of the reimbursement of tax on income from capital, from a company with the same level of equity holding which is resident in national territory?

2. In the event that the answer to the first question is in the negative:

   Do the principles of proportionality and effectiveness preclude the requirement of a certificate as referred to in the first question in the case where it is effectively impossible for a company in receipt of dividends from so-called 'free-float' shares which is resident abroad to provide such a certificate?

([1]) Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (OJ 1990 L 225, p. 6).

([2]) Council Directive 2003/123/EC of 22 December 2003 amending Directive 90/435/EEC on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (OJ 2004 L 7, p. 41).

Request for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania) lodged on 5 November 2020 — SC Cridar Cons SRL v Administrația Județeană a Finanțelor Publice Cluj and Direcția Generală Regională a Finanțelor Publice Cluj-Napoca

(Case C-582/20)

(2021/C 53/23)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

Appellant: SC Cridar Cons SRL

Respondents: Administrația Județeană a Finanțelor Publice Cluj and Direcția Generală Regională a Finanțelor Publice Cluj-Napoca

Questions referred

1. Are Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ([1]) and Article 47 of the Charter of Fundamental Rights of the European Union to be interpreted as precluding national legislation pursuant to which the tax authorities, after issuing a notice of assessment refusing to grant a right to deduct input VAT, are permitted to suspend the examination of an administrative complaint pending the outcome of criminal proceedings that could provide additional objective evidence of the taxable person's involvement in tax fraud?

2. Would the answer given by the Court of Justice of the European Union to the first question be different if, during the period for which examination of the administrative complaint is suspended, the taxable person benefits from provisional measures which suspend the effects of the refusal of the right to deduct VAT?

(1) OJ 2006 L 347, p. 1.

Request for a preliminary ruling from the Juzgado Contencioso-Administrativo No 2 de Valladolid (Spain) lodged on 5 November 2020 — BFF Finance Iberia S.A.U v Gerencia Regional de Salud de la Junta de Castilla y León

(Case C-585/20)

(2021/C 53/24)

Language of the case: Spanish

Referring court

Juzgado Contencioso-Administrativo No 2 de Valladolid

Parties to the main proceedings

Applicant: BFF Finance Iberia S.A.U

Defendant: Gerencia Regional de Salud de la Junta de Castilla y León

Questions referred

In the light of Articles 4(1), 6, and 7(2) and (3) of Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions: (1)

1. Is Article 6 of the directive to be interpreted as meaning that the sum of EUR 40 applies per invoice in all circumstances, provided that the creditor has individually identified the invoices in his claims before the administrative authorities and the administrative courts, or does the sum of EUR 40 apply per invoice in all circumstances, even if joint and general claims have been lodged?

2. How must Article 198(4) of Law 9/2017 [which lays down] a payment period of 60 days in all circumstances and for all contracts, providing for an initial period of 30 days for approval and another, additional period of 30 days for payment, be interpreted, in so far as [recital] 23 of the directive is worded as follows:

'Long payment periods and late payment by public authorities for goods and services lead to unjustified costs for undertakings. It is therefore appropriate to introduce specific rules as regards commercial transactions for the supply of goods or services by undertakings to public authorities, which should provide in particular for payment periods normally not exceeding 30 calendar days, unless otherwise expressly agreed … and provided it is objectively justified in the light of the particular nature or features of the contract, and in any event not exceeding 60 calendar days.'[?]