

**Request for a preliminary ruling from the Înalta Curte de Casație și Justiție (Romania) lodged on
30 December 2021 — Banca A v ANAF, President of ANAF**

(Case C-827/21)

(2022/C 165/33)

Language of the case: Romanian

Referring court

Înalta Curte de Casație și Justiție

Parties to the main proceedings

Applicant for revision: Banca A

Defendants: ANAF, President of ANAF

Questions referred

1. Is a national court required to interpret in a manner consistent with Council Directive 2009/133/EC ⁽¹⁾ the national tax legislation applicable to internal situations which governs the non-taxation of income arising on the cancellation of the shareholding of a receiving company in the capital of a transferring company, in circumstances such as those of this case, where:
 - the national legislature has regulated internal transactions and similar cross-border transactions with separate, non-identical rules;
 - the national rule applicable to internal transactions nevertheless operates using concepts contained in the directive — merger, transfer of assets and liabilities, cancellation of shareholdings;
 - the explanatory memorandum to the national tax law can be interpreted as meaning that the legislature intended to establish the same tax treatment for national transactions as for cross-border transactions, covered by the transposition of the directive, in order to comply with the principle of the tax neutrality of mergers in a non-discriminatory manner and in such a way as to avoid distortions of competition?
2. Must Article 7 of Council Directive 2009/133/EC be interpreted as meaning that the benefit of the non-taxation of income arising from a transaction whereby one company cancels its shareholding in another company, following the transfer of the assets and liabilities of the latter company to the former, cannot be refused on the ground that the transaction in question does not satisfy all the conditions laid down in national law in order to be classified as a merger?
3. Must Article 7 of Council Directive 2009/133/EC be interpreted as meaning that the benefit of non-taxation applies to the profit arising from an acquisition on favourable terms, reflected in the profit and loss account of the incorporating company?

⁽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 (OJ 2009 L 310, p. 34).

**Request for a preliminary ruling from the Bundesfinanzhof (Germany) lodged on 6 January 2022 —
RF v Finanzamt G**

(Case C-15/22)

(2022/C 165/34)

Language of the case: German

Referring court

Bundesfinanzhof