

**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

Parties to the main proceedings

Applicant: RF

Defendant: Finanzamt G

Question referred

Are Article 4(3) of the TEU and Article 208, read in conjunction with Article 210 of the TFEU, to be interpreted as precluding a national administrative practice according to which tax is not waived in cases where a development cooperation project is financed by the European Development Fund, while salary that a worker earns from a current employment relationship in respect of an activity associated with German official development assistance within the framework of technical or financial cooperation that is financed to at least 75 % by a Federal Ministry responsible for development cooperation or else by a state-owned private development assistance association is, in certain conditions, exempted from taxation?

Request for a preliminary ruling from the Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD) (Portugal) lodged on 10 January 2022 — Caxamar — Comércio e Indústria de Bacalhau SA v Autoridade Tributária e Aduaneira

(Case C-23/22)

(2022/C 165/35)

Language of the case: Portuguese

Referring court

Tribunal Arbitral Tributário (Centro de Arbitragem Administrativa — CAAD)

Parties to the main proceedings

Applicant: Caxamar — Comércio e Indústria de Bacalhau SA

Defendant: Autoridade Tributária e Aduaneira

Question referred

According to the correct interpretation of the Guidelines on regional State aid for 2014-2020, in conjunction with the provisions of Commission Regulation (EU) No 651/2014 of 16 June 2014, ⁽¹⁾ in particular Article 1 and Article 2(11) thereof, Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013, ⁽²⁾ and Annex I to the Treaty on the Functioning of the European Union, is it possible to conclude that, under Articles 2(2) and 22 (1) of the Código Fiscal do Investimento (Tax Code on Investment), approved by Decreto-Lei n.º 162/2014 (Decree-Law No 162/2014) of 31 October 2014, and Articles 1 and 2 of the Portaria n.º 282/2014 (Ministerial Order No 282/2014) of 30 December 2014, the processing of fishery and aquaculture products relating to 'salted cod', 'frozen cod' and 'desalted cod' in Economic Activity Code 10204Rev3 does not constitute the processing of agricultural products for the purposes of granting the relevant tax advantages?

⁽¹⁾ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ 2014 L 187, p. 1).

⁽²⁾ Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ 2013 L 354, p. 1).
