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Request for a preliminary ruling from the Tribunalul Bucureşti (Romania) lodged on 12 February 2020 — SC Mitliv Exim SRL v Agenţia Naţională de Administrare Fiscală and Direcţia Generală de Administrare a Marilor Contribuabili

(Case C-81/20)

(2020/C 279/24)

Language of the case: Romanian

Referring court

Tribunalul Bucureşti

Parties to the main proceedings

Applicant: SC Mitliv Exim SRL

Defendants: Agenţia Naţională de Administrare Fiscală and Direcţia Generală de Administrare a Marilor Contribuabili

Questions referred

1.

Do Articles 2 and 273 of Council Directive 2006/112 of 28 November 2006 on the common system of value added tax, (1) Article 50 of the Charter of Fundamental Rights of the European Union and Article 325 TFEU, in circumstances such as those in the main proceedings, preclude national legislation, such as that at issue in the main proceedings, which permits the adoption or implementation of sanctioning measures in relation to a taxpayer who is a legal person, in both administrative and criminal proceedings which are conducted in parallel in relation to that taxpayer, for the same specific acts of tax evasion, in a situation where the penalty applied in the administrative proceedings may also be classified as a criminal penalty, in accordance with the criteria identified by the Court of Justice of the European Union in its case-law, and to what extent are all of those events, taken together, excessive with regard to the taxpayer concerned?

2.

In the light of the answer to Question 1, should EU law be interpreted as precluding national legislation, such as that at issue in the main proceedings, which permits a State, through its tax authorities, to disregard, in administrative proceedings, in respect of the same specific acts of tax evasion, the sum already paid by way of criminal damages which at the same time also constitutes

the sum covering the tax loss, thereby making that amount unavailable for a certain period, in order subsequently also to establish in respect of that taxpayer, in the administrative proceedings, ancillary tax obligations in respect of the debt which has already been cleared?

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