

Case C-759/22**Request for a preliminary ruling****Date lodged:**

15 December 2022

Referring court:Bundesverwaltungsgericht (Federal Administrative Court,
Germany)**Date of the order for reference:**

27 September 2022

Applicant and appellant on a point of law:

Sächsische Ärzteversorgung

Defendant:

Deutsche Bundesbank

[The facts and legal context at issue in this case are substantially similar to those at issue in Case C-758/22; the questions referred for a preliminary ruling are identical. The relevant differences are set out below.

The applicant is an institution of the Sächsische Landesärztekammer (Saxony State Chamber of Physicians) with partial legal capacity that is tasked with the provision of pensions to the members of that chamber and the members of the Landestierärztekammer (State Chamber of Veterinary Surgeons) (see Paragraph 6(1) read in conjunction with Paragraph 1 of the Sächsisches Heilberufekammergesetz (Saxon Law on Chambers of Healthcare Professionals, ‘the SächsHKaG’) of 24 May 1994 (SächsGVBl. (Saxon Gazette of Laws and Ordinances) p. 935), last amended by Article 18 of the Gesetz vom 21. Mai 2021 (Law of 21 May 2021) (SächsGVBl. p. 578), and Paragraph 1 of the Satzung über die Sächsische Ärzteversorgung (Statutes of the Pension fund for doctors and veterinary surgeons in Saxony) in the version of 28 June 2008 (ÄBS (Saxon Medical Journal) 10/2008 p. 515), last amended by the 6. Änderungssatzung (6th Amending Statutes) of 19 June 2021 (ÄBS 09/2021 p.18) – ‘the Statutes’).

The compulsory members of the State Chamber of Physicians and the State Chamber of Veterinary Surgeons belong to the applicant as compulsory members

pursuant to the law and in accordance with the Statutes (see Paragraph 6(1) read in conjunction with Paragraphs 1 and 2 of the SächsHKaG, read in conjunction with Paragraph 1 and Paragraph 9 et seq. of the Statutes). As a general rule, those members include all physicians and veterinary surgeons who are authorised to practise their profession in the Free State of Saxony and who practise their profession or have their principal place of residence in that state.

The applicant, as an institution of the Saxony State Chamber of Physicians with partial legal capacity, is principally engaged in providing social insurance through financial intermediation, as described in the first and second sentences of Article 1(1) of Regulation (EU) 2018/231, by providing contribution-based old-age, survivors' and disability pensions to its members. It remains to be determined whether it is to be classified as a financial quasi-corporation falling within subsector S.129 of the European system of national and regional accounts in the European Union ('ESA') or is exempted from the reporting requirements as a constituent of the social security funds subsector.

Financial quasi-corporations are entities which keep a complete set of accounts and have no legal status. They have an economic and financial behaviour that is different from that of their owners and similar to that of corporations; they are deemed to have autonomy of decision. They are therefore treated as institutional units (paragraph 2.13(f) of Annex A to the ESA). The applicant, as an institution of the State Chamber of Physicians with partial legal capacity, keeps a complete set of accounts (Paragraph 8 of the Statutes). Although it has no legal status, it is organisationally and economically independent of the Chamber and has extensive autonomy. It performs its tasks independently, in accordance with the law and the Statutes, through its own bodies and using its own funds, which are separate from the Chamber's assets. In doing so, it is economically active, can hold rights and obligations, participate in legal transactions and establish liabilities for which it will be liable with its assets. If it were to be classified as a market producer of its pension benefits, it would, as a financial quasi-corporation as defined in paragraph 2.13(f) of Annex A to the ESA, be subject to the reporting requirements at issue by virtue of Article 1(2) of Regulation (EU) 2018/231, read in conjunction with Article 1(2), Article 2(2)(a) and Article 2(3) of Council Regulation (EC) No 2533/98 of 25 November 1998 concerning the collection of statistical information by the European Central Bank (OJ 1998 L 318, p.8) and paragraph 2.13(f), paragraph 2.55 et seq. and paragraph 2.105 of Annex A to the ESA.]