



INTERNSHIP REPORT AND SUMMARY

Identification of the participant

Name: Roztočil
First name: Aleš
Nationality: Czech
Country of exchange: Germany

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Hosting jurisdiction/institution: Federal Fiscal Court
City: Munich
Country: Germany
Dates of the exchange: from 17/3 to 28/3 2025

SUMMARY

In March 2025 I could take advantage by participating in a work exchange program of the ACA Europe. I visited German Federal Fiscal Court (Bundesfinanzhof, BFH) and I could study the work of German judges for two weeks. I explored the German financial judiciary from the organizational, procedural and functional point of view. This report provides short information on the program of my study visit, on the BFH and its role in the judicial review of acts of tax authorities including application of the EU law, selected elements of it compared to my home (Czech) legal system, presentation of good practice at BFH that can be an inspiration for my home court and my personal evaluation of the work exchange.



I. Programme of the exchange

BFH prepared a rich and useful program for me. After being welcomed by the chief justice I had a tour of the premises of the court. I had interviews with several colleagues. They explained me thoroughly the German system of judicial review in matters of taxation and customs duties and the way how they work. They also introduced me the cases they hear currently. This was very useful for understanding the court hearings in these cases I could participate in person later. I was also invited to take part in some deliberations of chambers.

One day I spent visiting the Financial Court in Munich, the first instance court. Also here I could watch the hearings of taxation disputes and discuss with German judges their work.

The vice-president of the BGH explained me the process of digitalisation of the administration of justice in Germany and he also demonstrated in practice how digital system of the BFH works.

I had an opportunity to discuss also the topics of judicial governance in Germany with the president of the judicial council (Richterrat) at BFH and with the judge in charge with performance judicial administration duties within BFH (Präsidialrichter).

The German colleagues invited me to take part in the regular meeting of the judges of the financial courts (Finanzrichtertag) with an extensive professional program consisting of presentations on current topics and discussion. I participated also in two days lasting professional conference on taxation issues (Steuerfachtagung München 2025).

Moreover, I could join some informal evening sessions with colleagues in the pubs, which enabled me to explore deeper and from other perspective the issues of their professional and personal lives.

II. The hosting institution

The BFH is the supreme judicial authority in Germany for matters related to financial and tax law and it is located in Munich. It serves as the supreme court in the country's system of administrative jurisdiction, specifically dealing with disputes concerning tax assessments, tax liabilities, customs duties, and other public charges.

The BFH is part of German administrative court system, which provides judicial review of acts of the tax and customs authorities. Within the broader court structure, the BFH operates as the final appellate court for tax and financial matters. Below it, there are regional finance courts (Finanzgerichte) that handle cases in the first instance. If parties disagree with the decisions of these regional courts, under the conditions set by the law they can file an appeal (Revision) to the BFH, contesting the legal opinion of the regional finance court.

The BFH primarily ensures the uniform interpretation and application of tax and fiscal law. It focuses on legal questions concerning the interpretation of tax laws, and its rulings are binding for all lower courts. The BFH does not deal with the facts of individual cases.

It consists of eleven chambers composed of five justices, each dealing with specific areas of financial law.

The rulings of BFH can be contested only by a complaint with the Federal Constitutional Court (Bundesverfassungsgericht) invoking the breach of the fundamental rights of individuals set by the German constitution.

III. The law of the host country

In Germany, judicial review of tax decisions is an essential aspect of the legal system, ensuring that taxpayers' rights are protected and that tax authorities act within the bounds of the law. The system begins with the assessment of taxes by the tax authorities. After a taxpayer receives a tax assessment notice (Steuerbescheid), they have the right to challenge the decision if they believe it is incorrect. This can be done by filing an objection (Einspruch) to the tax office (Finanzamt). This is the initial administrative step, where the taxpayer can request the tax office to reconsider the decision. If the tax office rejects the objection, the taxpayer can proceed to judicial review.

Tax disputes are subject to a specialized system of financial judiciary (Finanzgerichtsbarkeit). These are specific courts tasked with handling tax-related disputes. The court proceedings within financial jurisdiction are governed by the Financial Court Procedure Act (Finanzgerichtsordnung).

Regional financial courts (Finanzgerichte) are the specialized courts responsible for resolving tax or customs duties disputes. There are 18 regional financial courts across the country (one in every Land, Berlin and Brandenburg have 1 common regional financial court, in Bavaria are 2 regional financial courts, in North Rhine – Westphalia even 3 regional financial courts).

As already explained above, if the taxpayer or tax authority is unsatisfied with the decision of the regional financial court, they can appeal to BFH.

The taxpayers have several legal remedies and actions they can bring against acts or inactivity of the financial authorities. Here are the main types of actions available. (i) Action for annulment (Anfechtungsklage): This is the most common action brought by taxpayers to challenge formal administrative acts, such as tax assessment notices, decisions on deductions, on obligation to pay interest or ordering tax audit. The regional financial court reviews the facts, applies the tax laws, and may quash or even modify the decision of tax authority if it finds errors in the interpretation of the law or facts. (ii) Action for the failure to act (Untätigkeitsklage): If a taxpayer is dissatisfied with the inactivity or delay of the financial authorities (e.g., failure to issue a decision), they can bring an action for the failure to act. The regional financial court may order the authority to make a decision or take a specific action within a specified period of time. (iii) Action for declaratory judgment (Feststellungsklage): A taxpayer may bring a declaratory action to

establish the existence or non-existence of a legal relationship (e.g., confirming whether a particular tax obligation exists or not). This action is useful when the taxpayer seeks certainty regarding their tax obligations, particularly when the tax authority has failed to provide clear guidance or has issued an ambiguous decision. Qualified legal interest of a taxpayer for declaration of the legal relationship is condition for admissibility of this action.

IV. The comparative law aspect in your exchange

The German system of judicial review is based on a strict specialisation. On institutional level, there are three independent branches of administrative judiciary: social courts, financial courts and (general) administrative courts with three supreme courts at the top (Federal Social Court in Kassel, BFH and Federal Administrative Court in Leipzig). Further narrow specialization is present in the individual courts also at regional level and at supreme level: every chamber (panel) is specialised on specific area of substantial law. E. g., at the BFH there is (only) one chamber specialized on the disputes concerning customs duties, another chamber specialized on the corporates tax disputes etc. This can contribute to efficiency and to the high qualification of judges as well to the uniform and stable case-law. In Czechia the administrative courts are not specialised and also the chambers of the Supreme Administrative Court deal with all types of disputes (including taxation, social matters, administrative infractions, immigration etc.). This may lead to lack of deeper understanding of the matter or to inconsistency of the jurisprudence in some cases but on the other hand it enables dialogue between and inside of respective courts and development of the case-law. The judges are more ready to apply a systemic general view on the protection of fundamental rights of individuals rather than to analyse technical details of the case.

Another interesting difference relates to admissibility of a remedy against the judgement of the first instance administrative (financial) court. In Germany the parties are only allowed to file the appeal (Revision), if the regional financial court allows it. If the regional financial court didn't allow the appeal, the party may file a complaint against not-allowing the appeal (Nichtzulassungsbeschwerde). The BFH decides on the complaint and can exceptionally allow the appeal if it finds sufficient reasons presented by the party (e. g., inconsistency of the case-law or grounds of general interest on clarifying the legal issues of the case). On the contrary, in Czechia the appeal (cassation complaint) is generally admissible against all the judgements of the regional (administrative) courts. Therefore the Supreme Administrative Court has to decide in merits on almost four thousands of disputes a year (compare to four hundreds disputes decided by the BFH). This is an obstacle to an effort to adjudicate the cases of general interest more thoroughly and to maintain a uniform case-law.

V. The European aspect of your exchange

I had an opportunity to discuss the requests for preliminary rulings referred by German colleagues to ECJ. Similarly to my experience as judge of the Czech Supreme Administrative Court, the most frequent are references for preliminary rulings in the area of value added tax, customs duties or energy taxation and other excise taxes (tobacco and alcohol). BFH as German supreme court for taxes and customs duties is obliged to refer for preliminary ruling all the disputes rising questions of interpretation or validity of EU law.

VI. “Good Practice” within the host jurisdiction

I really appreciated the digitalisation of all court files and proceedings before BFH. German ministry of justice in cooperation with the federal courts including BFH developed complex software tool helping the justices and other court staff to perform all the procedural steps in digital form only. The parties are obligatorily represented by legal professionals and these must only communicate with the court digitally. The software also provides comfort and secured working conditions for preparing all the necessary court documents and sharing them with colleagues within the court chamber. This is really good inspiration for Czech Supreme Administrative Court, still working with paper files and very outdated internal software tool.

The other inspiring thing is the way in which hearings conducted before German financial courts including the BFH. For me surprisingly, the hearings are quite informal and provide possibility for real discussion on legal and factual issues of the case between participants and the court. This is probably also possible, because the hearings are not recorded and the participants (as well as judges) therefore feel free to express their opinions more openly. Thanks to these informal negotiations, two-thirds of all cases dealt by German financial courts are resolved through a judicial settlement.

VII. The benefits of the exchange

For me personally the work exchange was a unique opportunity to look into a different world of German financial judiciary based on strict specialisation of judges and more open to really decide the merits of the case and not to concentrate on the formal part of the case. I am ready to share the findings with my colleagues. The stay at the BFH also helped me to reflect my own work in a different way and maybe to understand it deeper and even to improve some aspects of my work. The exchange was not only a professional input but also a personal experience of hospitality and generosity of German colleagues. I could feel as a part of European judicial community. In this way, also new contacts to colleagues in the neighbouring country are a benefit of the stay.



VIII. Suggestions

The ACA program of work exchange is an excellent contribution to network of supreme administrative jurisdictions encouraging exchange of experience and expertise and dissemination of European values. I am thankful for all the support by the ACA team and for the hospitality of judges and other staff at BFH involved in preparing of my stay. Therefore, I have no special suggestions for the project. I would only recommend other judges to take part in the program.

